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Group Tenure in Administration of Public Lands

By

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Agricultural Economists

Bureau of Agricultural Economics

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INTRODUCTION

Ownership, management, and use of public grazing lands are current problems. Essentially they are a matter of landlord-tenant relations with Government as the landlord. The resolving of existing problems in the field deals with individual interest and privileges, public interests, and multiple-use considerations. Through resolving conflicts of interests social progress is made. Group-tenure devices are one means to this end.

The term "group tenure" is a convenient designation for various forms of cooperative action by which stockmen obtain control of land for operating purposes. The most notable example of group tenure is the cooperative grazing association or district. In the northern Great Plains, State laws make special provision for these organizations. The district or association acquires control of land through purchase, lease, or other means; thereafter it distributes grazing privileges among its members. Other forms of group organization, however, may perform substantially the same function. Soil conservation districts, for instance, may and do acquire legal rights in land and they distribute use privileges among individual operators. A few corporations organized and operated by stockmen buy or lease land for members to use in their individual livestock enterprises.

In this report, group tenure also includes those situations in which tenure is effected by groups of stockmen acting in any advisory capacity; for example, arrangements such as those in Taylor grazing districts. These advisory boards are empowered to give advice as to distribution of grazing privileges and to recommend rules under which the land is to be used. From a legal viewpoint, they differ from other types of group tenure in that advisory boards do not buy or lease land and do not have proprietary rights in the land with which they deal. However, the administrative agency is under some compulsion to ac-

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cept and support the decisions of local advisory boards. As a consequence they may effectively control tenure and land use in much the same way as owners or lessees control them.

Group tenure is distinguished from the individual operators which it represents and of which it may be composed. If the group—the association or district—owns land, it may be in the position of the landlord, whereas the members of the group are the tenants and land users. Under other circumstances, the group organization stands at an intermediate level between landlord and land users. In either case, the group is a recognizable entity, an organization through which are funneled some or all of the many lines of connection between landowners and individual operators.

In the West group tenure is an old and accepted institution. It had recognizable origins in the range practices of settlement days (*25, pp. 227–244*).[2] Stockmen owned their cattle and their base camps but they did not own land or grass. However, they did possess range rights which were recognized by their neighbors, if not by law. Because they were the first users of a given range, or because they controlled the water and base headquarters necessary for use of the surrounding grass, they were considered to have a special right to the land. In early Montana days, stockmen customarily established their rights by proclamation. They inserted notices in the nearest weekly newspapers, listing their brands and defining their range by reference to creeks, divides, dry coulees, and other landmarks. Later, Territorial laws attempted to give legal status to this rule of "customary range" (*3, pp. 102–113*). To a large extent. tenure of range land depended on moral and physical suasion, but in some respects group action performed a group-tenure function. Although the community had no legal right to the land, it could recognize range rights of qualified claimants and it could penalize usurping stockmen by such methods as refusing to let them participate in common round-ups.

In 1933 Montana enacted the first of a series of laws providing for organization of cooperative grazing districts. In a short time other States of the region passed special laws for grazing associations. Simultaneously with the cooperative grazing association movement, interest developed as to the possibility of using soil conservation districts for the same purpose.

By 1946, group-tenure activities of various types were widespread throughout the northern Great Plains. In the 5 States of Montana, Wyoming, North Dakota, South Dakota, and Nebraska there were 12 cooperative grazing associations which had grazing agreements with the Soil Conservation Service, and approximately 25 which had not. At least three soil conservation districts functioned as tenure groups. Eleven Taylor grazing districts had advisory boards of stockmen representatives, and the United States Forest Service recognized 169 different livestock associations and advisory boards on the forest ranges.

The study upon which this report is based is restricted to the northern Great Plains, and particularly to the short-grass range country between the Missouri River and the Rocky Mountains, in the five States of Montana, Wyoming, North Dakota, South Dakota, and Nebraska.

[2] Italic numbers in parentheses refer to Literature Cited, p. 50.

It is primarily concerned with the management of public land that is devoted to private use. Public-use lands, such as parks, monuments, national forests, and Indian reservations, are administered for a definite public purpose. Publicly owned land on which group tenure functions, however, derives its chief importance from the private uses to which it is put. All public lands have public values and multiple-use considerations, and no sharp distinction can be maintained between public-use and private-use categories. The public domain, the national forest grazing land, and the submarginal land acquired by Federal purchase present special problems of management.

In this report consideration is first given to cooperative grazing associations and districts that function cooperatively with the land-management program of the Soil Conservation Service. Then follows a discussion of advisory boards in Taylor grazing districts and national forests. Finally, examples of other group-tenure devices are presented.

COOPERATIVE GRAZING ASSOCIATIONS AND DISTRICTS IN THE LAND UTILIZATION PROGRAM

During the 1930's several million acres of land in the northern Great Plains were acquired by the Federal Government under authority of title III of the Bankhead-Jones Farm Tenant Act of 1937 and antecedent authorities. This land was acquired for the purpose of correcting maladjustments in land use through a program of land conservation and land utilization, including the retirement of submarginal lands or lands not primarily suitable for cultivation. The Secretary of Agriculture was empowered to acquire submarginal lands by purchase, transfer, or otherwise, and to develop and administer such lands in order to carry out the basic purposes of the legislation. This program was transferred to the Soil Conservation Service in 1938 as a part of its general program for conservation and improved land use.

Lands acquired under this program are located in land-utilization projects which began as demonstration projects in problem areas. Within the projects title III land is scattered and thoroughly intermingled with other land owned variously by Federal, State, and county governments, corporations, and individuals. The heterogeneous pattern of land ownership is characteristic of much of the northern Great Plains. Particularly as most of the acquired land was taken from cultivation and retired to the more extensive grazing use, one of the fundamental problems in the land-utilization program is to work title III land into proper use relationships with the land with which it is intermingled. Nearly all title III land is now classified as grazing land, and the Soil Conservation Service attempts to direct the use of this land, together with other grazing land and ranch base properties, into adequate livestock units.

With minor exception, title III land is used by individual stockmen in connection with their private livestock operations. In the absence of agreements with local tenure groups, the Soil Conservation Service executes individual agreements or permits with each user of Government land. Generally speaking, the Service prefers to distribute grazing privileges in areas for joint or community use. Individual allotments are used when location or other considerations justify desig-

nating a particular tract for the exclusive use of one operator. In either case, grazing privileges are granted in the form of permits, rather than by lease.[3] By law title III lands are required to be retired from cultivation. Small areas suitable for cropping, hay production, seed production, timber cutting, and the like are included in these lands and the Service grants a few permits for such uses. Nearly all title III land, however, is range land rather than farm land or land used for ranch headquarters.

The greater part of title III land is administered through the intermediary of various local organizations of users. When a tenure group, such as a cooperative grazing association, is recognized within a given area, the Soil Conservation Service issues a permit to the association rather than to the individual user. The association, in turn, issues permits to private operators in the area.

The over-all importance of group-tenure arrangements is shown by the fact that in 1945 in the 5 State area more than 83 percent of the gross area of the land-utilization projects was included within cooperative grazing associations and districts. In 1945 the Soil Conservation Service had agreements with 44 tenure groups, and through them approximately 4,000 permits were issued for about 2¼ million animal-unit months of grazing. The 44 tenure groups represented about 2,900 members and these operators controlled, individually and through their tenure group, more than 14 million acres of land in the 5 States of Montana, Wyoming, North Dakota, South Dakota, and Nebraska (table 1).

TABLE 1.—*Summary of operations of grazing associations and districts in land-utilization projects, northern Great Plains, 1945* [1]

Item	Projects	Item	Projects
Total area:		Total area—Continued	
Land-utilization projects	*Acres* 20, 574, 993	Controlled by associations, etc.—Con.	
Included in grazing associations and districts	17, 192, 353	Type of land—Con.	*Acres*
Controlled by associations and districts (ownership, lease, permit, and otherwise):		Private	379, 529
Type of land:		Other	295, 543
Federal:		Total	7, 938, 807
Title III	3, 922, 589	Within districts controlled by members	6, 296, 373
Other	2, 262, 349	Grazing associations and districts [1]	*Number* 44
State	452, 173	Members	2, 924
County	407, 338	Grazing permits:	
Railroad	219, 286	Season	3, 985
		Animal-unit months	2, 251, 102

[1] Data apply to 44 grazing associations and districts in 5 States. Land Management Division, Region V, Soil Conservation Service, U. S. Department of Agriculture, Lincoln, Nebr.

[3] A grazing permit authorizes the permittee to graze a specified number of livestock for a specified period and subject to certain conditions. The Government retains the right to use the land for all purposes not inconsistent with the exercise of the use permitted.

In comparison with the advisory board system used by the Forest Service and the Bureau of Land Management of the Department of the Interior, the group-tenure aspects of the land-utilization program have two main distinguishing characteristics. Cooperative grazing associations and districts control land use and tenure because they own or lease the land or have other definable rights in it. Advisory boards exercise control over land indirectly through a Government agency, and only to the extent that authority is delegated to them by the agency. As creatures of State law, cooperative grazing associations have no necessary connection with the Federal land program, whereas advisory boards are clearly administrative devices. Furthermore, with the exception of the land-managing soil-conservation districts, the grazing association and district types of organization are private business organizations, operated by stockmen for their mutual and private interests. The advisory boards are organized for a specific public purpose. The fact that grazing associations and advisory boards may perform similar functions, therefore, derives from the particular use made of these organizations rather than from basic similarities of structure.

State Legislation for Grazing Districts

Cooperative grazing associations and districts here considered fall into four categories: (1) Cooperative State grazing districts organized under a special Montana law; (2) cooperative grazing associations organized under special laws in North and South Dakota; (3) grazing associations organized under general State laws, principally in Wyoming; and (4) certain soil-conservation districts in Nebraska and North Dakota that exercise land-managing powers.[4] With respect to group-tenure activities, these various types are more or less similar and can be so regarded. Differences in their legal status, however, are sometimes important, particularly with regard to cooperative relations with Federal and State agencies.

Cooperative grazing associations were first organized in Montana.[5] The prototype, the Mizpah-Pumpkin Creek Grazing Association, was formed as an unincorporated group in 1928. Chiefly as a result of this experience, Montana, in 1933, enacted the first law especially providing for the incorporation of grazing associations. Subsequently amended and thoroughly revised, the Montana law—known as the Montana Grass Conservation Act—is the outstanding example of special State legislation for group tenure.[6] In Montana, State

[4] For general purposes, the term "grazing districts" can be considered to include all four categories. In Montana cooperative grazing associations are properly referred to as "cooperative State grazing districts." In North Dakota they are called "grazing associations." In South Dakota they are named "grazing districts." Most of the Wyoming organizations are named "grazing associations," although this is not true in a few cases. The land-managing soil-conservation districts cannot be distinguished by title from any other soil-conservation districts.

[5] Capital-stock corporations performing group-tenure functions—such as the Rock Springs Grazing Association, which is described later in this study—were organized at an earlier date.

[6] Montana Sess. Laws, 1933, ch. 66, as amended by ch. 195, S. L. 1935; revised by ch. 208, S. L. 1939, as amended by ch. 199, S. L. 1945 (*5*).

grazing districts were created for the purpose of providing a means of administering lands of widely varying tenure conditions over which ranchmen could not get control as individuals.

Under the impetus of the land-utilization-land-purchase program, in 1935, North Dakota and South Dakota enacted somewhat similar legislation.[7] The Wyoming grazing associations resemble in many respects the grazing associations in the Dakotas. Wyoming has no special law for the incorporation of cooperative grazing associations, possibly because a similar type of organization has long operated under the general laws of the State, and possibly because, in 1937, it was determined that general-law grazing associations were qualified to participate in the land-utilization program.

Soil conservation districts exercise group-tenure functions under the general provisions of the standard State soil-conservation-districts law. For the area under consideration, however, only Nebraska and North Dakota districts have seen fit to exercise this authority—a fact that cannot be attributed to differences in State legislation.

Legal Characteristics of Grazing Districts

Grazing districts in the northern Great Plains are classified as cooperative nonprofit business enterprises. They are organized by the process of filing articles of incorporation and receiving a certificate of incorporation from the Secretary of State. In Montana, organization must be first approved, after hearings in the district, by the grass conservation commission.

The powers of a grazing association are the general powers of corporations, except that special laws may enumerate the specific functions for which grazing associations are designed. The Montana law, for instance, empowers grazing associations to acquire forage-producing land by purchase, lease, or otherwise from private owners or from State, county, or Federal agencies; to control and manage range use by means of preferences, permits, and allotments; to acquire or construct fences, water facilities, and other range improvements; to specify the breed, quality, and numbers of male animals turned into common grazing areas; to fix the amount of grazing fees and assessments on range users, and to hire range riders and other employees; to purchase or market livestock, livestock products, equipment, and supplies; to undertake reseeding and other range-improvement practices; as well as to conduct other fiscal and management practices necessary for the general purposes of grazing-district operation.

Through their power to lease, purchase, and acquire other proprietary rights in land, grazing districts may control the use of land by members or nonmembers. An association is entitled to proceed under the laws relating to trespass in the same way as other persons who own or lease land. In the Dakotas and Wyoming, this is the only legal way in which associations may establish control over land. As will appear later, Montana grazing districts, in addition, may exercise authority through special trespass provisions in the Grass Conservation Act.

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[7] North Dakota: Sess. Laws, 1935, ch. 106, as amended by ch. 112, S. L. 1937, and ch. 116, S. L. 1941 (*6*). South Dakota: Revised Code of South Dakota, 1939, sec. 40.1801 to 40.1809 (S. L. 1937, ch. 71, as amended) (*8*).

Membership in grazing associations is voluntary and it is open to any qualified applicant who subscribes to the association bylaws and pays the fees and assessments charged for membership and for grazing privileges. To be qualified for membership, applicants must be persons, partnerships, corporations, or associations engaged in the livestock business and owning or leasing land in or near the district. There are no significant limitations as to size of district membership. A grazing district may be organized by 3 or more persons in Montana and South Dakota, and by 15 or more in North Dakota.

In North Dakota, the law restricts organization of grazing associations to areas in which the Federal Government has acquired grazing land that is to be made available to the association. The intent of this law clearly is to provide for the organization of local associations to cooperate in the use and management of land within Federal acquisition projects (*23*). Apparently there is no legal objection in any of the States to the organization of both soil conservation districts and grazing districts in the same territory, and the question of overlapping boundaries is one to be determined by the persons interested (*23*).

Land Management by Soil Conservation Districts

Major differences between soil conservation districts and grazing associations for purposes of land tenure and management lie in the following characteristics: (1) Soil conservation districts are political subdivisions of the State, whereas grazing districts are private cooperative organizations; (2) all owners or occupiers of land within a soil conservation district participate in organization and operations. In a grazing district, membership is voluntary and is restricted to livestock operators; (3) soil conservation districts are continuing governmental units, whereas grazing districts have a limited corporate existence; (4) soil conservation districts are formed after hearings and a referendum of all land occupiers, whereas grazing districts may be organized by any operators without consulting or deferring to the wishes of other operators in the locality. In Montana, however, the grass conservation commission requires that grazing districts go through somewhat the same process of organization as soil conservation districts. The commission holds public hearings in proposed State grazing districts and authorizes organization only if formation of the district seems practicable and beneficial.

Another legal difference is that soil conservation districts are empowered to enact local regulations as to land use which have the force and effect of law. Grazing associations—except under the special provisions of Montana law—have only those powers of control inherent in ordinary ownership or lease rights.

Soil conservation districts have the power to lease or purchase grazing land for the general purpose of resource conservation. As stated in the Montana law, a soil conservation district has authority "* * * to obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein, * * * to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this act; and to sell, lease, or otherwise

dispose of any of its property or interests therein * * *" (*5, sec. 8 (5), ch. 72*). These powers are not unlimited as they are intended to further the purposes of the soil-conservation legislation, but the purposes may be interpreted broadly enough to cover activities normally carried on by grazing associations.

Special Provisions for State and County Land in Grazing Districts

In Montana, a cooperative State grazing district is required to lease any State-owned land that is within the boundaries of the grazing district and not otherwise disposed of by the State board of land commissioners. In the event that a disagreement arises over the "reasonable rental," the State land board is authorized to reappraise the land in question. In such cases the Montana Grass Conservation Commission may act in an advisory capacity to the State land board and it is in position to assist in reaching an agreement. The State land is leased for rentals that vary from locality to locality.

A South Dakota law provides that counties owning land may make special and more favorable arrangements with grazing associations than with other lessees. The lease may extend for 10 years, rather than for the 5-year term offered other lessees, and while so leased the land is not subject to sale—except to the association—or to the other statutory provisions regulating sales and leases to private parties. The county commissioners must reserve the right to limit and regulate the extent of grazing on county land, and they may provide for a variable scale of rentals based upon market prices, carrying capacity, type of livestock, or a combination of these factors.

Montana Grass Conservation Commission

One of the most important features of the Montana law is its provision for a central State authority to supervise cooperative State grazing districts. The five members of the Montana Grass Conservation Commission are appointed by the governor for 4-year terms. The law requires that these five members include: (1) a member of the Montana Stockgrowers Association, (2) a member of the Montana Woolgrowers Association, and (3) a member of the County Commissioners Association. The fourth member must be a qualified livestock operator and member of a grazing district, and the fifth member, who represents the general public, must be "familiar with the livestock industry." Commission members are reimbursed for expenses but they receive no salaries. The commission appoints a full-time executive secretary.

The commission has specific authority to (1) supervise all grazing districts organized under State law; (2) approve the bylaws of each association and order dissolution of any association that fails to adopt bylaws approved by the commission; (3) subpoena witnesses and issue citations to any person, directing him to appear before the commission; (4) delegate to the secretary or to any member of the commission authority to hold hearings on any matter affecting the commission; (5) require grazing districts to submit any or all district records to the commission to aid in investigations conducted by the commission; (6) standardize the various forms used by grazing districts and require

districts to submit itemized financial statements annually; and (7) to act in an advisory capacity to the State board of land commissioners and boards of county commissioners for the purpose of developing plans for the use of land in or near grazing districts.

No district may be organized until the secretary of the commission holds hearings and determines whether formation of the district appears "feasible, beneficial, and desirable to the majority of those who own or control more than 50 percent of the lands to be included" in it. By this authority, the commission can effectively control such decisions as those relating to area, location, membership, and whether a grazing district shall overlap a soil conservation district.

Grazing districts may borrow money and mortgage their assets with commission approval only. The commission supervises dissolution proceedings, approves transfers of membership rights and interests, and determines compensation for unexpended improvements when leases are transferred. It may remove directors of a district from office, after a hearing, if the directors fail to observe a lawful order issued by it, and it may then operate the district until new directors are elected. As adviser to State and county land boards, the commission influences considerably the land policies that relate to grazing districts.

TRESPASS PROVISIONS OF THE MONTANA LAW

A second major feature of the Montana law is the authority it gives State grazing districts to control trespass within the district. By the exercise of this power, Montana grazing associations can control grazing lands within their districts to a much greater extent than can grazing associations organized in other States. With the exception of land-use regulations enacted by soil conservation districts, the Montana trespass provision is the only legal method by which tenure groups can control the use of land not actually owned or leased by the district.

Neither members nor nonmembers of the association can graze livestock in or across a Montana State grazing district without first obtaining a permit from the district.[8] Violation of this provision is a misdemeanor, punishable by a fine of $10 to $500. Also, the trespasser is liable for damages. The State district or its agent may impound trespassing livestock, charge for their trespass and expenses up to 50 cents per animal unit per day, and retain enough animals to cover damages and costs pending the outcome of civil action. If the owner cannot be found or will not pay damages or if he does not provide a bond to replace the value of livestock retained, the grazing district may notify the county sheriff and the nearest State livestock inspector. The sheriff may require that the district furnish satisfactory evidence that the owner of the trespassing livestock cannot be found, but he can proceed to sell the livestock. Proceeds of the sale go to pay: (1) the sheriff's costs and expenses; and (2) damages, claims, and costs of the grazing district. The remainder of the proceeds goes to the county treasurer who establishes a fund in the name of the grazing district. If the owner of the livestock subsequently appears, he may

[8] Montana Sess. Laws, 1939, sec. 26, ch. 208, as amended by sec. 7, ch. 199, S. L. 1945 (5).

recover the remainder of the proceeds within a year; otherwise, the money goes into the general fund of the county.

Trespass provisions are not applicable against operators within the district who graze their livestock on land owned or legally controlled by them as individuals. Under such conditions, the operator may fence his land at his own expense, or he may obtain a "free-use" grazing permit from the district, the size of which depends upon the carrying capacity of his land. The nonmember may elect to become a member, or he may be able to exchange his private holdings for similar land controlled by the district or its members. However, unless he takes one of these alternative courses, the operator who has no grazing permit runs the risk of being held a trespasser on district-controlled land. At the same time, he cannot recover damages for any trespass committed on his land by stock grazed under district permit.[9]

Trespass provisions of Montana law have particular application under two circumstances. In the first place, range livestock frequently graze at large within unfenced range areas. If a nonmember legally controls some but not all of the grazing land within such an area, it is practically impossible for him to avoid being in trespass unless he builds a fence around his holdings. Economically, this may be impracticable. In the second place, not all land within grazing districts is legally controlled by the district or by individual operators. Use of this "free land" is prohibited to operators without grazing permits, as they have no legal right to the land and are automatically in trespass on land within the district. The fact that the grazing district itself may have no more legal right than the trespasser is immaterial. The district may not, however, issue grazing permits for free land within its boundaries.

Grazing districts in Montana are particularly well equipped to deal with trespass and to use their special powers to control range use within district boundaries. It is significant that Montana, which provides grazing districts with supplementary trespass authority, also provides a State commission to supervise and control district operations and to protect public interests. The practical significance of legal provisions for the control of trespass, however, must take into account the reluctance of districts to resort to the courts. District directors usually handle trespass cases by establishing the fact of trespass, and then persuading violators to take out, and pay for, regular grazing permits.

Grazing Districts and the Soil Conservation Program

Before administrative responsibility for the land-utilization program was lodged in the Soil Conservation Service of the Department of Agriculture near the close of 1938, there were several organizational changes but almost from the beginning the land-management program provided for cooperation with local groups of users. The first grazing agreement in the region was executed in 1937 with the Thunder Basin Grazing Association in northeastern Wyoming, and the contract was signed for the Government by the Farm Security Administration. During the period in 1938 when the title III program was administered

[9] Montana Sess. Laws, 1939, sec. 27, ch. 208, as amended (*5*). Livestock under permit by a district may not be held in trespass on farm lands within the district, unless the farm land is surrounded by a legal fence.

by the Bureau of Agricultural Economics, that agency stated: "Because establishment of a cooperative grazing district makes it possible to develop more flexible control of larger range areas, including public as well as private lands, the grazing association plan is generally favored" (*9, p. 12*). When the submarginal-land-acquisition program was transferred to the Soil Conservation Service, this policy was continued and expanded.[10] From the viewpoint of the individual range user, the principal advantage of the group lease is the opportunity for local participation in allocating use privileges and determining rules and regulations. In the past, the grazing fee charged by the Service in most projects was from 3 to 5 cents lower for group permits than for direct individual permits.

The Grazing Agreement

The basis for cooperation with local grazing associations and districts is a contract entered into by the grazing association and the United States of America, represented by the Soil Conservation Service. Known as the grazing agreement, this relatively short document states the purpose of the agreement and the general obligations assumed by both parties. The contract is for a 10-year period and it may be renewed by mutual consent. The agreement may be terminated at any time by 6 months' written notice by either party.

Under terms of the grazing agreement, the Soil Conservation Service leases land and improvements to the grazing district for grazing purposes. The property is listed and identified by exhibits attached to the agreement. When lands were still being acquired, additions to the acreages involved were made frequently. More recently, the Service has been turning over to district control the winter grazing and commensurate property which was formerly reserved. These changes are made by revising the exhibits, and they require no major alteration in the grazing agreement itself. Land turned over to local associations consists of all land acquired within the exterior boundaries of the district, except those lands which are administratively determined to be needed for development, protection, or direct assignment by the Service.

The Soil Conservation Service further agrees to the following obligations: (1) To notify the grazing association annually of the amount of grazing fees and method of payment;[11] (2) to determine, with the assistance of the association, the rate of stocking and seasons of use, and to make necessary revisions to adjust range use to current forage production; (3) to furnish the technical assistance necessary and available for the improvement of association-controlled lands; and (4) to cooperate with the association in preparing the land-management plan and in conducting management work on title III lands. The Service reserves the right to perform developmental work at its

[10] Soil Conservation Service Manual (revised to Jan. 6, 1945), 44732 (1) (c) (*21*). "By placing responsibility for a large part of the details of management in local organizations, it is possible to obtain better and more complete integration of the use of title III lands with private and other public lands. Accordingly, it is the policy of the Service to place responsibility for the management of title III lands whenever practicable in local organizations of users."

[11] The grazing agreement does not specify the amount of grazing fees.

discretion on title III lands, and to prosecute or defend actions or proceedings for protection of the land.

By the terms of the agreement, the association agrees to use or issue use permits for Government lands and to pay grazing fees in the amount and way prescribed in the annual notice given by the Service. The association also underwrites all costs and expenses incident to the use of Government land and agrees to maintain improvements according to standards set by the Service. The way in which Government lands are used is supervised by the Service under a provision that requires the association, with the assistance of the Service, to formulate and execute a land-management plan and range rules that are "not inconsistent with the terms of the grazing agreement, the Secretary's regulations, or Service policies." The district's land-management plan and rules shall, among other things:

(*a*) Define a qualified applicant, adjustment and maximum limits, the factors used in determining preference and other necessary terms used in the administration of grazing lands.

(*b*) Establish procedures for the classification of applicants in regard to preference, recognition of preferences, and issuance of grazing permits.

(*c*) Establish procedures with reference to revision, suspension, revocation, and reallocation of preferences, reduction in grazing privileges for protection, nonuse permits, crossing privileges, joint use, individual allotments, exchange use, trespass, wildlife conservation, etc.

(*d*) Provide for penalties for violations of the district's rules.

(*e*) Require permittees using title III lands to follow sound conservation practices in the use and management of all other lands in their operating units and specify the conservation practices which permittees are to follow.

(*f*) Establish livestock management rules, including salting plans, breed and bull requirements, and seasons of use, and determine kinds of livestock to be grazed, etc.

(*g*) Establish commensurability requirements and standards.

The fact that title III land is almost always used in conjunction with land in other types of ownership is recognized by a provision which requires that the association's rules and land-management plan shall apply to all association-controlled lands that are suitable for grazing. The association is furthermore required to make "* * * diligent efforts to acquire by lease, purchase, or otherwise grazing rights upon all other Federal, State, county, and privately owned lands, the control of which is essential to the establishment and maintenance of a sound land-use program in the District." The grazing agreement obligates the association to acquaint the Service periodically with its efforts to acquire additional land control and of the rights acquired.

The association also agrees to take prompt administrative or legal action for violation of its rules and for trespass on all lands under its control. Any violation by permittees or others of the terms of the grazing agreement or any trespass on title III lands must be reported promptly to the Service.

The absence of a grazing agreement does not mean that title III land is not used or that its use is necessarily less effective. The first requirement for cooperation with local associations is that the grazing district shall be located within, at least in part, and overlapping the land-utilization project area. The Soil Conservation Service does not consider entering into any form of grazing agreement with an association that, by location and membership, does not represent the project areas.

When a soil conservation district exists within a project, or is proposed for organization, the Service first investigates the possibility of administering title III lands through the district. If that arrangement is impracticable or if the district board of supervisors does not wish to take over administration of Government lands, the Service next considers possibilities of local grazing associations. Each organization is considered as an individual case.

Memoranda of Understanding With Grazing Districts

Under the terms of the grazing agreement, the Soil Conservation Service deals with the tenure group rather than with individual operators, and departmental activities are restricted to management and development of title III lands. In the other phases of the Federal soil conservation program, the Service—through memoranda of understanding with soil conservation districts—is authorized to cooperate with and to furnish technical assistance, equipment, and supplies to districts and to individual farmers and ranchers for developing privately controlled lands. In the land-managing soil conservation districts—such as the Pine Ridge and Sugar Loaf districts in Nebraska—the Service cooperates both through grazing agreements and memoranda of understanding. In these districts, conservation and development work may be done cooperatively on both public and private land. In most grazing associations, however, relationships between the district and the Soil Conservation Service are restricted to the terms of the grazing agreement.

Among cooperative grazing associations, Montana grazing districts fall into a special category, as it is the policy of the Department of Agriculture to cooperate with them on much the same basis as with soil conservation districts. The policy, as first enunciated in 1940, authorized the Soil Conservation Service to enter into memoranda of understanding with Montana grass conservation districts and to furnish technical assistance, subject to certain limitations. During the war years, the policy was liberalized and Montana grazing districts now cooperate with the Service under arrangements similar to those of soil conservation districts. By January 15, 1947, memoranda of understanding had been signed with 22 Montana cooperative State grazing districts, most but not all of which are located within the land utilization projects.

For several reasons departmental policy was altered to include cooperation with grazing districts in Montana. In the first place, the Grass Conservation Act has much the same basic objectives as the Soil Conservation Districts Act. Similarity is indicated both by the titles of the acts and by the language of their preambles.[12] In the range country, soil conservation problems are frequently range prob-

[12] The Montana "State soil conservation districts law" was enacted in order "* * * to provide for the conservation of the soil and soil resources * * * and for the control and prevention of soil erosion and thereby to preserve natural resources, * * * protect public lands, * * * and protect and promote the * * * general welfare" (*5, 1939, sec. 2D, ch. 72*). The purpose of the Montana Grass Conservation Act is "* * * to provide for the conservation, protection, restoration, and proper utilization of grass, forage, and range resources" (*5, 1939, ch. 208*).

lems, and it is difficult to draw any sharp and valid distinction between the purposes of grass conservation districts and soil conservation districts in the same locality.

In the second place, the Montana law is unique in that it provides a central State authority—the grass conservation commission—to supervise and regulate cooperative State grazing districts. The commission, comparable to the State soil conservation committee, has even greater authority as it may regulate and supervise districts after they are organized as well as while they are in process of formation. The State soil conservation committee acts only in an advisory capacity to organized soil conservation districts (*23*). The authority of the grass conservation commission thus removes State grazing districts from the category of purely private organizations and assures that they will conform to the basic conservation purposes of the act.

In addition to statutory considerations, departmental policy has probably been influenced greatly by the fact that grazing districts had been organized extensively in Montana before the first soil conservation districts appeared in 1940. Particularly in the land-utilization projects, many of the problem areas were included within State grazing districts, and the local operators were reluctant to consider a new form of organization for substantially the same purpose. Furthermore, both central authorities—the grass conservation commission and the State soil conservation committee—apparently adopted the policy of authorizing new districts only in areas in which the other type of district was not already functioning. As a consequence, there was relatively greater incentive to broaden departmental policy to include the type of district already in existence.

For the purposes of management of public land, the development of private land may be no less important than the development of public land, as the two kinds must be balanced out in operating units. Under the land-utilization program, the Service enters into grazing agreements with cooperative grazing associations and thereby provides for management and development of title III lands. At the same time, the Service conducts its development program for private land through soil conservation districts. For an over-all conservation and development program, this would seem to require the organization of two overlapping districts. This situation is avoided when soil conservation districts undertake group-tenure functions in addition to their more customary activities, and it is likewise avoided in Montana where the Service may execute memoranda of understanding with grazing districts. In other circumstances the problem is unsolved.

Interdepartmental Cooperative Agreement

Land-utilization projects sometimes include sizable acreages of public-domain land under the administration of the Department of the Interior. In Montana, most of the projects are included within the boundaries of Taylor grazing districts; in the other States the included public domain is administered under section 15 of the Taylor Grazing Act. Recognizing the difficulties of dual administration, the Departments of Interior and Agriculture in 1936 entered into a cooperative agreement providing for the transfer of administrative responsibil-

ity.[13] Soil Conservation Service policies relating to group tenure were not appreciably affected. The agreement, however, was of great importance in that it made possible coordinated administration of title III land and public-domain land included within the land-utilization projects

In localities outside of established or proposed Taylor grazing districts and within land-utilization projects, the Secretary of the Interior agreed to transfer public domain for development and administration as part of the land-utilization program.[14] Under the original plan the Resettlement Administration agreed, where land utilization projects were included within Taylor grazing districts, to submit its lands for administration by the Department of the Interior. In general, this means that both public-domain and title III lands are now administered by the Soil Conservation Service in the Wyoming and Dakota land-utilization projects, whereas the Department of the Interior has administrative authority for both types of land in Montana.

Both agencies guaranteed cooperation in formulation of rules, regulations, or policies with respect to carrying capacity, rates of stocking, rules of the range, and fees to be charged permittees. The Resettlement Administration reserved the right to promulgate regulations regarding prior use, dependency, commensurability, and preferential treatment of applicants. It was agreed that the Secretary of the Interior would actually issue grazing permits in the Montana projects.

The Resettlement Administration was authorized to construct improvements upon both title III and public-domain lands, and the Department of the Interior assumed responsibility for maintenance in those areas in which it had primary administrative authority. Not included in the agreement were lands which the Resettlement Administration might indicate were temporarily subject to development, and crop, hay, or winter grazing lands that were to be assigned directly to individual operators.

Public-domain lands in Montana are more scattered than in the other Western States which have Taylor grazing districts. In Montana's Taylor districts, for instance, excluding title III land, only about 21 percent of the gross acreage is Federal land administered by the Department of the Interior (*15, p. 181*). In Wyoming, approximately 65 percent of the area of the Taylor districts is composed of Federal land. This difference may be reflected in policies for administering public domain within and outside Montana. However, terms of use and general relationships between the Soil Conservation Service and local grazing districts are substantially the same in Montana as, for instance, in North Dakota, where the Soil Conservation Service administers public domain in conjunction with title III lands. On the other hand, the land-management policies of the Department of the Interior have been significantly modified in Montana. In a land-utilization project in Montana, grazing permits for public domain land in most cases are issued to cooperative grazing associations rather than to individual operators. Allocation of grazing privileges

[13] Memorandum of understanding between Resettlement Administration and Department of the Interior, October 1, 1936. The Montana lands were eliminated from this agreement by mutual consent in February 1948.

[14] The actual transfers were accomplished by a series of Executive orders issued as lands became available. The Secretary of the Interior merely agreed to recommend to the President that the transfers be made.

is by standards more characteristic of the land utilization program than of the Grazing Service.[15]

Operation of Grazing Associations and Districts in Land-Utilization Program

AGREEMENTS

During the 1945 grazing season, the Soil Conservation Service had grazing agreements with 44 grazing associations and districts in the northern Great Plains. Other grazing associations in the same region are located outside project areas and therefore play no part in the land-utilization program. Others, which operate within project boundaries, have no grazing agreements, although members may have individual permits from the Service.

Relatively little information is available concerning grazing associations not associated with the Soil Conservation Service program. Some—such as the Mizpah-Pumpkin Creek Association and organizations discussed later in this report—are active and are operating effectively; others are in process of organization or dissolution. Generally speaking, tenure groups do not spring into existence overnight, nor do they disappear promptly when they become inoperative. Most of them begin operations only after an extended period of discussion and preparation. Districts that disorganize merely cease to function, usually some months or years before they are officially dissolved and removed from the lists. Even in Montana, where grazing districts are regulated by the State grass conservation commission, it is often difficult to ascertain whether a district is a going concern or whether it exists in name only. In the other States, it is almost impossible to make a distinction.

The 44 grazing associations and districts discussed in this section are examples of group tenure that are actively functioning. The Soil Conservation Service enters into grazing agreements only with districts that are actively operating and only for so long as the districts continue to function. For this reason, comparative data for these 44 districts are particularly significant. In table 1, page 4, are listed regional totals of membership, acreage, operations, and tenure. Tables 2 through 6 show, as of January 1946, frequency, distribution variations in gross area, acreages controlled by districts, number of members, and animal units grazed under district permits. Statistics presented substantially reflect the existing situation.

Group-tenure organizations are a remarkably diverse lot. What a particular district is and does depends upon a number of different

[15] One characteristic difference between the two programs is that Soil Conservation Service grazing permits are related to "adjustment" and "maximum" limits established within each project. An adjustment limit, often fixed at about 125 animal units in this region, designates the minimum size of operating unit considered adequate for an average family over a long period. A maximum limit—often fixed at 250 or 300 animal units—is the maximum size of operating unit to which individual operators are assisted to build their enterprises. The Grazing Service program, on the other hand, sets no limits, maximum or minimum, as to the size of individual grazing preferences. Distribution of grazing is based solely on commensurability and priority of use, whichever gives the smaller number of units.

factors that are often unrelated to controlling factors in other areas. Considering the diversity of these factors and the relatively small number of tenure groups, it must be recognized that each individual district is more or less unique and that it is adapted to a peculiar combination of local circumstances.

Gross Area of Grazing Districts

The largest of the grazing associations within land-utilization projects is the South Phillips Cooperative State Grazing District in Phillips County, Mont., with a total area of nearly 2,000,000 acres. The second largest is the North Phillips district. These two districts together include all of Phillips County—an area of nearly 5,000 square miles. The smallest district is Red Butte Cooperative State Grazing District, with a total area of about 10 sections. As indicated in table 2, about half of the grazing districts in project areas fall into the size range from 100,000 to 300,000 acres.

TABLE 2.—*Grazing associations and districts by gross area, northern Great Plains, Jan. 1, 1946*

Gross area (acres) [1]	Grazing associations or districts					
	Montana	Nebraska	North Dakota	South Dakota	Wyoming	Total
	Number	*Number*	*Number*	*Number*	*Number*	*Number*
Less than 100,000	4			1	1	6
100,000–199,999	8	1	1	1		11
200,000–299,999	7	1		3		11
300,000–399,999	2					2
400,000–499,999	1			1		2
500,000–599,999	3		1			4
600,000–699,999			1			1
700,000–799,999						0
800,000–899,999			1			1
900,000–999,999					2	2
1,000,000 and over	4					4
Total	29	2	4	6	3	44

[1] All lands included within district boundaries. Land Management Division, Soil Conservation Service, U. S. Department of Agriculture.

Generally speaking, the average size of districts has tended to increase over the last 10 years, partly through consolidation of original districts and partly because many of the smaller districts have become inoperative. In 1935, for instance, there were 57 districts in 3 Montana counties, whereas 8 years later there were only 11 districts (*24, p. 3*). In one South Dakota project where 4 grazing districts were operating, 25 or 30 districts were proposed for organization during the years immediately following enactment of the South Dakota grazing districts law. Many of the areas listed as "unorganized" within purchase projects were formerly included within grazing districts which were abandoned soon after they were organized.

Opposed to the general process of consolidation and enlargement, however, is the occasional tendency of operators in larger districts to resort to subdivision as a method of resolving conflicts of interest between neighborhoods within districts. The North Valley Grazing District in Montana, for instance, was organized to include most of the northern half of Valley County. Small farming-livestock operators took control of district activities, and, in protest, a few large ranchers organized two small grazing districts—Buggy Creek and Willow Creek—in the middle of the original district. The two new districts comprised about 41 percent of the total area of the original district and had a combined membership of 34. The North Valley district, composed of the two noncontiguous parts, formed an irregular strip, surrounding the other districts, with a membership of 94 operators (*22*).

District-Controlled Land

Within the exterior boundaries of a grazing district, the association itself may control some acreage, members of the association may control land as individuals, other land may be controlled by nonmembers, and still other land may be "free," that is, not legally controlled by the actual users. The gross area of a grazing district, therefore, does not of itself tell much about land tenure. More significant is the extent of land actually controlled by the district (table 3).

Table 3.—*Number of grazing associations and districts by area of district-controlled lands, northern Great Plains, Jan. 1, 1946*

Gross area (acres) [1]	Grazing associations or districts					
	Montana	Nebraska	North Dakota	South Dakota	Wyoming	Total
	Number	*Number*	*Number*	*Number*	*Number*	*Number*
Less than 50,000	9	1			1	11
50,000–99,999	6	1	1	3		11
100,000–149,999	3		1	2		6
150,000–199,999	5			1	1	7
200,000–249,999	1					1
250,000–299,999						0
300,000–349,999	1					1
350,000–399,999					1	1
400,000–449,999						0
450,000–499,999			1			1
500,000–549,999	1					1
550,000–599,999	1		1			2
600,000 and over	2					2
Total	29	2	4	6	3	44

[1] All lands included within district boundaries. Land Management Division, Soil Conservation Service, U. S. Department of Agriculture.

Among the 44 grazing associations and districts, the acreage of district-controlled land varied from 1,082,043 acres in South Phillips Cooperative State Grazing District to 8,114 acres in Petroleum-Fergus District in central Montana. In more than half of the districts, acre-

age ranged from 50,000 to 200,000 acres. Buggy Creek Cooperative State Grazing District controlled by ownership, lease, and permit 80.8 percent of all land within its exterior boundaries. At the other extreme, Musselshell-North Willow Creek Cooperative State Grazing District controlled only 6.7 percent of its gross acreage. Distribution for the 44 districts is indicated in table 4. It will be noted that the interquartile range is relatively narrow; the majority of the districts controlled from 30 to 60 percent of their total area.

TABLE 4.—*Number of grazing associations and districts by percentage of association-controlled land within district boundaries, northern Great Plains, Jan. 1, 1946*

Percentage of association-controlled land within district boundaries (percent)[1]	Grazing associations or districts					
	Montana	Nebraska	North Dakota	South Dakota	Wyoming	Total
	Number	*Number*	*Number*	*Number*	*Number*	*Number*
Less than 10	3					3
10–19.9	2				1	3
20–29.9	5		1			6
30–39.9	4	1		1	1	7
40–49.9	4	1	1	1		7
50–59.9	5			2	1	8
60–69.9	3		1	1		5
70–79.9	3		1	1		5
80–89.9						
90 and over						
Total	29	2	4	6	3	44

[1] Data apply to 44 grazing associations and districts in 5 States. Land Management Division, region V, Soil Conservation Service, U. S. Department of Agriculture, Lincoln, Nebr.

The extent of district control must be interpreted with due consideration of the control exerted by member-operators as individuals. Group tenure is a supplement to individual tenure, and it has little significance when individual operators own or control adequate livestock units under satisfactory private arrangements. When it is possible, desirable, or necessary for operators to establish tenure control through group action, private control becomes correspondingly less important. In either case, the degree of actual control is a summation of group and individual tenure.

In the Flatwillow district of Montana the combined district and member control is over only about half the total acreage, and this situation points to a serious difficulty in district operations. In this area relatively little land was acquired by submarginal land purchase, and the Flatwillow district controlled only 5,402 acres of title III land, 12,447 acres of public domain, and 3,320 acres of State school land. Reporting on activities for 1941, the project manager said:

> The most important problem * * * is that of gaining control of more land within the district boundaries. Through * * * inability to pay exorbitant rentals for county and private land, the directors and members of each graz-

ing district are not able to prevent private operators on the outside from securing large tracts of land in the district itself and are forced to stand by helplessly while the effects of this situation create dissatisfaction among the members and defeat the purpose for which the district was organized.

In 1943 he stated:

There are frequent small tracts scattered over the area owned by people who, in many cases, have never seen the land and have been misinformed as to their value. They will not sell at a reasonable price and often will not even lease. These lands thereby become free range and are continually jockeyed back and forth between operators and frequently abused.

In this particular district, one of the principal difficulties was maintenance of control over county land. In the project as a whole, county land comprised 8.5 percent of the total area in 1943, and more than half of this land was sold during the next 2 years. The project manager states:

The grazing districts * * * have had little success in obtaining the cooperation and support of the county officials in regard to the county-owned lands. It seems the county is interested only in getting their lands back on the tax roll, and due to the good conditions and high livestock prices they have had success during the last few years. It is evident, however, that many of these sales were made indiscriminately to new operators, causing hardships upon the existing and established operating units, the very evil the grazing district is attempting to avert.

Ownership of District-Controlled Land

When districts enter into grazing agreements with the Soil Conservation Service, the associations acquire control over the title III land within their boundaries. Certain exceptions are made for miscellaneous crop- and feed-producing lands and other small areas of land other than grazing land, but, generally speaking, federally acquired land automatically goes under district control. The districts also acquire control of most of the public-domain land under the interdepartmental agreement described in a preceding section. Montana grazing districts, by law, are obligated to lease certain school lands. All other types of land are acquired only when the districts buy or lease by negotiations comparable to the ordinary bargaining between private parties. With the exceptions noted above, types of land controlled by districts depend, therefore, on the ability and willingness of the districts to buy or lease.

As might be expected, grazing districts control more title III land than any other kind. For the 44 districts with grazing agreements, about half the land controlled—49.6 percent—was title III. Other Federal land, largely public domain, accounted for another 28.4 percent. County and State lands were approximately equal, 5.1 percent and 5.7 percent, respectively. Privately owned lands were next in rank, comprising 4.7 percent of all district-controlled land. Railroad land accounted for 2.8 percent of the total, and the remainder—3.7 percent—was composed of district-owned land, member-controlled land pooled under district control, and miscellaneous categories.

TYPES OF LAND CONTROLLED

Among the individual districts, the types of land controlled depended upon the land-ownership pattern of the various localities. Of equal,

or perhaps greater, importance was the character of land tenure when the grazing districts began to operate. Tenure groups tended to concentrate on lands that were either uncontrolled or unsatisfactorily controlled under individual arrangements. For instance, when county and State land was largely leased by individuals, the district could not control it. However, if the county was not able to lease its land, or if the county leases were not satisfactory to the individual lessees, the district could sooner or later have an informal agreement to lease all county land within the area.

Title III Land.—Acreage of title III land included in the districts studied and percentage relation of this land to total area of the district varies considerably. In the McKenzie County and Spring Creek areas approximately half of all land was federally purchased. At the other extreme are the Flatwillow, Badlands, and Buffalo Creek districts in which title III lands were relatively sparse. This variation was due to two main causes. When the land-use problem was primarily one of too much cultivation of land best suited for grazing, large areas of farm land were acquired and restored to grazing use. Also in the early years of the program (1934–37), before passage of the Bankhead-Jones Farm Tenant Act, purchases were not so closely confined to the buying of occupied submarginal farms and, in some cases, included the purchase of county-owned land acquired through tax foreclosure. In some project areas, therefore, title III lands bulk large in the total land-ownership pattern. In other areas, particularly where relatively less land was farmed, only small areas of land were purchased.

Other Federal Land.—The importance of title III land in group-tenure operations varies with other possibilities of group land control. In the Badlands district, with a relatively small amount of title III land, the district had grazing permits for 619,490 acres of public domain. The North Phillips, South Phillips, Chain Butte, Indian Butte, Prairie County, and North Valley districts each have permits for large acreages of public domain. For most purposes there is no great difference at present between title III land and public-domain land. Under the interdepartmental agreement, the two types are administered together, and they can hardly be distinguished from each other. In fact, acreage of title III land listed in the McKenzie County district includes about 45,000 acres of former public domain administered by the Soil Conservation Service, together with purchased land.

State Land.—Nearly all grazing associations and districts in the region lease some State land. Relations between the districts and the State land board are formally recognized in the Montana Grass Conservation Act, but in all States it is generally true that a grazing district enclosing appreciable acreages of State land is usually able to lease it if the State land is not already under lease to individuals. In some cases State land leased comprised only one or a few scattered tracts, but 12 of the 44 districts each leased from 10,000 to 63,000 acres of State land.

County Land.—Leasing of county land by grazing districts was less uniform than leasing of State land, partly because of variations in extent of county land but also because of varying relationships between county boards of commissioners and local grazing districts. In this region county lands were acquired more or less unwillingly

by the counties, and county administrators were under some pressure to obtain the highest possible revenues from the land and to dispose of it as soon as possible. Neither of these conditions favor negotiations with grazing districts, which usually seek long-term leases at rentals based on carrying capacity rather than competitive bidding. Some county boards leased large acreages of county land to districts, apparently with considerable security of tenure.

Seventeen of the forty-four grazing associations and districts leased no county land at all. One of these was the Flatwillow district whose county land problem was discussed in the preceding section. North Phillips, Buffalo Creek, and Badlands district—in the selected sample—on the other hand, each leased from 50 to 150 sections of county land. In Buffalo Creek, county lands comprised 40.8 percent of all lands controlled by the district.

County lands are usually in an unstable state of ownership. In practically all project areas the extent of county land has decreased drastically in recent years. In one Montana project county land decreased from 162,000 to 22,000 acres between 1943 and 1945. Winnett Cooperative State Grazing District lost about three-fourths of its county land during this same period. Other districts, in other States, have had similar experiences. Since 1945, counties have continued to dispose of their lands. A notable, but not unique, illustration of county land disposal is that of the Buffalo Creek district as described by excerpts from the 1943 and 1945 project reports:

1943.—The county * * * has been very cooperative in land use problems. All the county land, which is approximately 24 percent of the area, is leased to the district for approximately what the taxes on the land would be if it were in private ownership. The county has refused to consider proposals to buy tracts of this land in spite of considerable pressure from speculative operators. They do not refuse to sell any land to block up any established operator or enlarge a small operator, provided the grazing district recommends the sale.

1945.—The year of 1945 has been one of the most critical in the history of the Buffalo Creek Grazing District. Considerable grazing land has been lost through the sale of county lands by the county commissioners * * *. Approximately 60,000 acres within the district were sold in these transactions. Of this, the use of 38,000 acres is lost to the district and its members. This loss will necessitate about a 20-percent reduction in grazing permits for the year of 1946. Although only one-fifth of the land control has been lost, one-third of all the water developments of the district were lost through these sales.

Railroad Land.—The type of land controlled by grazing districts depends upon the types of land ownership within each locality. No illustration of that fact is more apt than that of the railroad lands. Only 8 of the 44 grazing associations and districts in the region leased any railroad land, but in those few districts railroad property often was of considerable importance in land control. The Prairie County Grazing District leased 82,209 acres of Northern Pacific land, and the McKenzie County Association leased 71,803 acres; these lands comprised 15.2 and 12.2 percent, respectively, of all district-controlled lands.

Privately Owned Land.—In the effort to extend operating control over grazing lands, districts usually attempt to lease land privately owned by nonoperators or nonresident individuals. "Unwilling" nonresident ownership has been a major characteristic of land tenure in the Great Plains, and many small tracts of private land complicate the already checkerboarded pattern of land ownership. Nearly all

grazing associations lease some of this land, although the percentage is relatively small. Among the 17 selected districts, for instance, 1 leased no private land, and 11 leased acreages amounting to less than 5 percent of the district-controlled land. The remainder leased somewhat more, but in no case more than about a fifth of the total land controlled.

Under terms of the grazing agreement with the Soil Conservation Service, districts agree to make "diligent efforts" to acquire control of land within the district. The extent to which districts actually attempt to lease nonresident private land varies from district to district. There is no doubt that the desire to obtain legal control is tempered by the thought that the district may use the land anyway, controlling it by the advantage of location or the trespass provisions of the Montana act. On the other hand, there is little doubt that many nonresident owners are not interested in the kind of arrangement that a grazing district tries to make. Many are primarily interested in selling the land or at least in obtaining the maximum current revenue.

Membership in Districts

The 44 grazing associations and districts in land-utilization projects had an average membership of about 66 each. Individual districts, however, varied widely. The Petroleum-Fergus district, at one extreme, had only 6 members in 1945; the Prairie County and McKenzie County associations had 166 and 233 members, respectively. Approximately half of the 44 districts had from 30 to 100 members (table 5).

Table 5.—*Number of grazing associations and districts by number of members, northern Great Plains, Jan. 1, 1946*

Number of members	Grazing associations or districts					
	Montana	Nebraska	North Dakota	South Dakota	Wyoming	Total
	Number	*Number*	*Number*	*Number*	*Number*	*Number*
Less than 10	1					1
10–19	3			1		4
20–29	7				1	8
30–39	8			1		9
40–49	1					1
50–59		1		2		3
60–69	2			1		3
70–79	1					1
80–89					1	1
90–99	1					1
100–109	1	1				2
110–119			1			1
120–129	1		1		1	3
130–139				1		1
140–149	1					1
150 and over	2		2			4
Total	29	2	4	6	3	44

Land Management Division, Soil Conservation Service, U. S. Department of Agriculture.

Membership was roughly proportional to gross area, but it was greatly influenced by the character of land use in the various localities. For instance, the Sheyenne Valley association is relatively small, when judged by acreage, but it has a relatively large membership. Located in southeastern North Dakota, this district includes many small livestock and combination livestock-farming units in which the land is used more intensively than it is farther west. The Badlands Cooperative Grazing District in Montana, on the other hand, is in an area of large-scale ranching operations; the district has relatively few members in proportion to its tremendous acreage.

A grazing association usually distributes its grazing permits among its members. Membership is open to all livestock operators in the area, and all operators who seek grazing privileges are urged to join. Permits are often issued to nonmembers, however, usually on a temporary basis, particularly when there is an abundance of grass. Not all members are issued grazing permits; some have sufficient land under individual control for their needs, and others may be temporarily unable to make use of additional grazing. Members without grazing permits frequently hold nonuse permits.

In a soil conservation district all operators in the area are members of the organization. In grazing associations and districts, membership is voluntary and usually it does not include all operators. No data are available to compare the proportion of members and nonmembers in the grazing districts. The proportion of permittees—or members—to the total number of operators might be considered to demonstrate the degree of local participation in the tenure group. However, this relation often has no particular significance. Some stockmen have adequate units under private control and thus they have no incentive to take active part in a grazing association. More important is the fact that few districts have a completely homogeneous land use. In North Phillips, for instance, 8 of the 58 townships are classed as cropland, and 1 of the 8 townships is irrigable. Within these agricultural areas are many operators who have no livestock interests. In 1942, 64 farm or ranch operators within the boundaries of North Phillips district did not have grazing permits; according to the project manager these were "mostly small operators with a few head of cattle or a farm flock of sheep grazed on land owned or leased by them."

Livestock Permits and Preferences

As indicated in table 1, the grazing associations and districts in 1945 issued approximately 4,000 grazing permits for a total of two and a quarter million animal-unit months of grazing. An animal-unit month represents the amount of grass necessary to feed 1 mature cow (or its equivalent, 5 sheep) for 1 month. The quantity of animal-unit months, therefore, is a good measure for comparing the grazing operations of various districts, as it disregards variations in carrying capacity and rate of stocking. Approximately half of the districts permitted from 15,000 to 50,000 animal-unit months of grazing on district lands, representing from 2,000 to 6,000 cattle for the summer grazing season (table 6). In the selected sample of districts, Flatwillow district had only 6,301 animal-unit months under permit, and Prairie County had the extreme high of 450,464 animal-unit months. Both of these

districts have an 8-month grazing period, so the figures may be interpreted to represent summer grazing for about 800 and 56,000 cattle, respectively.

TABLE 6.—*Number of grazing associations and districts by animal units under grazing permits, northern Great Plains, Jan. 1, 1946*

Animal-unit months	Grazing associations or districts					
	Montana	Nebraska	North Dakota	South Dakota	Wyoming	Total
	Number	*Number*	*Number*	*Number*	*Number*	*Number*
Less than 10,000	5					5
10,000–19,999	7	1		1	1	10
20,000–29,999	3	1		1		5
30,000–39,999	4		1		1	6
40,000–49,999	3		1	2		6
50,000–59,999	1			2		3
60,000–69,999						0
70,000–79,999	4					4
80,000–89,999						0
90,000–99,999					1	1
100,000 and over	2		2			4
Total	29	2	4	6	3	44

Land Management Division, Soil Conservation Service, U. S. Department of Agriculture.

Grazing districts issue permits for cattle, sheep, and horses. Again in this respect the practice of individual districts depends upon local circumstances, and the type of permits largely reflects the type of livestock in the area. Throughout the region more grazing permits are issued for cattle than for sheep, a reflection of a general trend in livestock production in the region.

Grazing permits are allocated among individual operators according to their established "preferences." A preference entitles the holder to special considerations over other applicants for the grazing available. The more important factors in establishing preferences are "commensurability," "dependency," and "prior use." Generally speaking, an operator has commensurability when his operating unit includes the winter range, water facilities, and feed-producing land necessary to maintain his livestock during the period they are off the district range. Dependency is the need for summer range land for an operation to be in balance with commensurate land. Prior use is merely a recognized history of previous range use, usually during a specified base period.

Commensurability, prior use, and other criteria are carefully defined in the bylaws of the various districts, and on the basis of these standards, preferences are assigned to individual operators. Assignment of preferences is a slow and careful process as it is a more or less permanent evaluation of individual shares in grazing resources; a number of districts are still in the process after several years of operation on temporary permits. Preferences are stated in terms of animal units, and they fall into several categories. A "class A preference," for

instance, means that the operator is qualified by commensurability, dependency, and prior use for the specified number of animal units. An "adjusted class A preference" means that the operator is qualified in all respects except for priority of use. This is an innovation of the land-utilization program to assist operators with small holdings to shift to more livestock and to build their operations to an adequate size. "Class B" preferences are established to cover any grazing capacity not obligated by class A or adjusted class A preferences. No prior use is required for a class B preference. For any season of below-average forage production, aggregate grazing is prorated among holders of class A, class A adjusted, and class B preferences alike, according to numbers of animal units stated in the preferences.

An operator may have established preferences yet he may be unable or unwilling to use a grazing permit. In such case he may apply for a nonuse permit, which protects his preference, yet authorizes the district to assign use privileges to others. One of the problems has been unused preferences. Accordingly, a graded scale of nonuse fees is often adopted to encourage operators either to use their preferences or to permit them to be reassigned to other operators. In 1945, McKenzie County had more than 6,000 animal units under nonuse permits. Accordingly, for the 1945 season, holders of nonuse permits were required to pay 20 cents per animal unit. This fee was gradually increased until the 1948 season, when a nonuse permit cost the holder 70 cents per animal unit. It was planned that this arrangement would gradually force abandonment of unused preferences unless the nonuse were only temporary.

For the 44 grazing districts, slightly more than half of all animal-unit months under permit were grazed in private allotments; that is, in areas set aside for the exclusive use of an individual permittee. The remaining livestock were turned out in community pastures used by two or more operators. As stated previously, Soil Conservation Service policy favors use of common pastures as a means of expediting adjustments. These common grazing areas are frequently set aside for small operators who are trying to build up their units and for whom the fencing and use of individual pastures is not economic. However, common pastures are often used by larger operators in continuance of open-range practices of the locality.

Fiscal Operations

Grazing associations and districts are nonprofit enterprises, and, for the most part, their financial operations consist of paying rentals, fees, and incidental expenses and passing these costs on to member-operators in the form of grazing fees. Assets and liabilities of some of the smaller districts practically cancel out when the books are balanced. Some of the larger districts, however, maintain a substantial net worth.

The major item of income is that from grazing fees charged individual permittees. Fees are based on animal-unit months under permit and are thus prorated according to benefits received. The fee varies not only from district to district but sometimes within a district, according to the type of grazing permit. The fee charged nonmembers is sometimes slightly greater to compensate for the

membership fees and other obligations assumed by members. The grazing fee in common pastures may be higher than in private allotments, particularly when the district provides range riders, performs developmental work, and assumes maintenance responsibilities.

The Soil Conservation Service charge to districts for title III land varies from project to project. In 1945, the charge in Montana was 10 cents per animal unit; in Wyoming, 17 cents; in North Dakota, from 15 cents (in the McKenzie County area) to 25 cents (in the Sheyenne Valley area); in South Dakota, from 15 cents to 17 cents in the various projects; and in Nebraska, 25 cents per animal-unit month.[16] The grazing fees charged members varied roughly in the same proportion. The charges made to members, however, are not precise indications of land costs, because other costs—such as taxes, developments and improvements, payments to reserve funds, administration, and management—are included in the prorated grazing fees. Districts have other sources of income that tend to reduce grazing fees, and occasionally a district will reduce an accumulated reserve fund by temporarily lowering fees.

Grazing associations finance part of their operations by membership fees. The McKenzie County association, for instance, has an annual membership fee of $5 that netted more than a thousand dollars in 1945. In most districts, however, membership fees are nominal or are charged only to new members as initiation fees. The general preference is to prorate expenses in accordance with benefits received (as in the grazing fees) rather than make flat charges to all members.

In 18 of the 44 districts in the region agricultural-conservation-program payments are a source of district revenue. In the selected sample, Buffalo Creek received more than $7,000 from this source in 1945, and five other districts received more than $1,000 each. Most of these payments are for the construction of stock-water facilities and range improvements on district-controlled land other than title III. Individual members also participate in this program. In McKenzie County, the association owns earth-moving equipment worth several thousand dollars, and in 1945 paid more than $6,000 for fuel, repairs, and operators' salaries in constructing range improvements. For such improvements on district land, the association received $1,745.41 in Agricultural Adjustment Administration payments. Some of the work was done on lands privately owned and controlled by individual members, and those members reimbursed the association to the extent of nearly $5,000. Equipment rental, machine work, and reservoir and ditch construction are common expense items, reimbursable when the work is done by the district for individual members.

Under the terms of the grazing agreement, range improvements may be constructed by districts and individuals on title III lands with the approval of the Soil Conservation Service. It has been common practice for the Government to construct these improvements, while the associations concentrate their efforts on other types of district-controlled land. The associations assume the responsibility for maintenance of Government-constructed improvements,

[16] For the 1948 season the fee charged tenure groups was 31 cents in Montana, Wyoming, South Dakota, and western North Dakota. In eastern North Dakota it was 44 cents, and in Nebraska it was 38 cents. These increases are in accordance with a plan to establish a sliding scale system based on livestock prices.

although they sometimes pass the expense along to individual operators who use the land on which the improvements are located. In the Devil's Basin district, for instance, individual members maintain the improvements within their respective allotments unless the cost of maintenancen exceeds $50, in which case the district assumes reponsibility.

In the performance of association activities, officers' salaries and expenses, office rent, supplies, postage, and similar expenditures are charged off as administrative expense. Among the various districts, this item varies from a nominal figure to nearly $3,000 a year. Administrative expense is a major item of overhead, and it might be expected that the burden of overhead expenses would be relatively heavier in the small districts. However, this is not necessarily true. In the first place, large districts frequently engage in such supplementary activities as construction and maintenance of range improvements, developmental programs, active range management, and the like, whereas smaller districts may do little more than allocate land among individual operators. In the second place, large districts may hire full-time secretaries, rent office space, reimburse their elected officers, and otherwise itemize their business expenses; much of the administrative work of smaller districts is informally delegated to members. Because of differences in types of service performed and in proportion of hidden costs, the costs of administration are not comparable.

ADVISORY BOARDS IN THE TAYLOR GRAZING DISTRICTS AND NATIONAL FORESTS

The Grazing Service and its successor agency [17] have completed a little more than a decade of operation with the advisory-board system whereas Forest Service experience extends over nearly half a century. Use of advisory boards in administration of public land is similar in both agencies. In general, it consists of officially recognizing a local board elected to represent range users, and consulting the board in matters relating to administration. As previously stated, advisory boards have no proprietary rights in the land. Whereas a cooperative grazing association controls land by lease, permit, or deed, an advisory board may only advise and recommend.

It is obvious, however, that an advisory-board system functions successfully only so long as its recommendations are given serious consideration. An agency that makes an effort to use advisory boards is under some compulsion to accept their advice. Both the Forest Serv-

[17] The Grazing Service no longer exists. As part of the Presidential reorganization plan effective July 16, 1946 (*20, Federal Register, July 20, 1946*), the Grazing Service and the General Land Office, Department of the Interior, were consolidated in the Bureau of Land Management. Within the present Bureau, the Branch of Range Management now administers both the land within Taylor grazing districts and the grazing land formerly administered under section 15 of the Taylor Act. Because there is no other convenient way of referring specifically to the grazing-district program of the Department, the former designation of the Service is retained in this discussion. Reference is also made to "Taylor grazing districts," to distinguish them from other types of grazing districts in the region; in departmental parlance, the designation "Taylor" has been abandoned.

ice and the Grazing Service follow the policy of adopting recommendations that are not clearly opposed to Service regulations and policy. If the decisions of an advisory board are ordinarily translated into administrative action, the board plays an effective, if indirect, role in local administration.

The extent to which advisory boards actually enter into administrative decisions is difficult to determine. Activities of an advisory board are one step removed from definite action and they are not easily tabulated or counted. The greater part of its business is transacted in round-table discussions with administrative officials and range users, and relatively few advisory board decisions are written into formal resolutions. Furthermore, there appears to be a relation between advisory board activity and the stage of development attained by the public-land-administration program. In the early phases of the Grazing Service program, advisory boards and their predecessors participated in delineating the Taylor districts, writing the *Federal Range Code* (*16*), and making the preliminary allocations of range. Once accomplished, these tasks have diminished in importance, and administrative matters have tended to become more routine.

Although use of advisory boards in the two Services is similar, there are differences. A few of the significant ones are: (1) The advisory-board system was consciously adopted by the Grazing Service at the outset and was given considerable publicity and authority; (2) the Grazing Service boards have definite legal status, and are authorized to deal with many aspects of administration; and (3) Grazing Service advisory boards are mandatory and are established in each of the grazing districts, whereas the Forest Service advisory-board system is permissive, and varies from forest to forest.

Livestock Associations and Advisory Boards in National Forests

National forests are established to protect and improve the forest within certain boundaries, to secure favorable conditions of water flows, and to furnish a continuous supply of timber to meet our needs. The organic act states that it is not the intent of the law to authorize inclusion in national forests of land that is more valuable for mineral or agricultural purposes than for forests (*18, title 16, sec. 475*). Forested lands, however, almost always include areas suitable for livestock grazing. Although the main purpose of national forest administration relates to timber production and watershed protection, regulation of grazing in the forests is an outstanding illustration of multiple use of public-land resources.

In the over-all national forest program in the Western States, all uses, including range management, are subordinated to watershed protection. However, in its own right, the forest-range program is a large-scale enterprise of great importance in the western livestock industry.

The Division of Range Management in the Forest Service administers grazing on more than 83 million acres of forest land, comprising about 53 percent of all land administered by the Forest Service. In 1945 on these lands 1,206,018 cattle and horses and 3,896,350 sheep and goats were grazed by a total of 22,646 permittees. In the five-

State region, forest land and forest grazing are of greatest importance in Montana and Wyoming. For those two States the extent of grazing use in 1946 is indicated in table 7.

TABLE 7.—*Acreage of grazing land and number of livestock in national forests, Montana and Wyoming, 1946* [1]

Item	Montana	Wyoming
	Acres	*Acres*
Total acreage within boundaries of forests	18, 987, 481	8, 959, 232
National forest land:		
Usable for grazing	7, 092, 944	4, 598, 281
Open for grazing	5, 476, 830	4, 276, 909
Livestock grazed:	*Number*	*Number*
Cattle and horses	118, 298	106, 640
Sheep and goats	313, 454	507, 055

[1] Annual Grazing Statistical Reports, by forests, Forest Service, U. S. Department of Agriculture (*13*).

History of Group Tenure in the National Forests

Almost from the beginning, cooperation with local groups of range users has been a recognized policy of the Forest Service. Although the Federal statutes do not require the Service to use the advisory board system, administrative policy since 1906 has been to provide for recognition of and cooperation with local organizations of livestock operators. During the early years of forest administration, many local associations were formed.

About 1911, interest in advisory board operations waned with the development of harmonious relations between the Forest Service and livestock operators (*2*). At that time, 359 advisory boards were recognized by the Forest Service, and activity was directed toward adoption and enforcement of special rules by the stockmen's associations. With the approach of World War I, however, interest in local associations was revived. In 1917, more than 600 local livestock associations were recognized. In 1936, of 763 such associations, 711 met all advisory board requirements; in 1946, about 800 such groups were functioning (*1*).

ADVISORY BOARDS

Advisory boards in the forests are of several different kinds, and their organization is optional with range users. A recognized local livestock association usually elects an advisory board, consisting of the president, vice president, secretary, and two additional members. This group usually functions both as an advisory board and as an executive body for the association. Where livestock associations are not organized, an advisory board of at least three, or preferably five, members may be elected by all range users within the grazing unit. Advisory boards may also be elected by permittees running a particular kind of livestock to represent that class of range users. An ad-

visory board elected for a subdivision of a forest must consist of at least three members; for an entire forest or for a larger unit, the board must consist of at least five members.

LEGAL STATUS.—Both livestock associations and advisory boards in the national forests have advisory powers in forest administration. Although forest officers are directed to encourage organization of range users and to give "* * * full and careful consideration to the suggestions of associations and advisory boards," Forest Service policy is clearly to delegate no administrative responsibility or authority to the tenure groups. The *Manual* states this policy emphatically:

> It is, however, the responsibility of administrative officers to determine in each instance whether the recommendations and suggestions of the association are compatible with the regulations and service-wide policy and the good of the forest and other interests, including the interests of other stockmen. This responsibility cannot be delegated. The Forest Service must control the grazing on the forests and retain final administrative authority (*14, Jan. 6, 1945, pp. 6–7*).

The reason for this policy is that national forests are a multiple-use resource and that the Forest Service does not regard it good administrative practice to delegate authority to groups that represent only part of the interests involved in the forests. Production of timber, protection of wildlife, recreation, and watershed protection must be considered along with grazing use in administering the forests.

In national forest administration, in contrast with administration of the public domain under the Taylor Grazing Act, advisory boards are not provided for by law. In recent years, several attempts have been made to introduce legislation that would specifically recognize advisory boards in the national forests. In each case, however, the proposed legislation has included, together with provisions for advisory boards, sections which would establish grazing permits as permanent rights of permittees rather than as the privileges they are now considered to be. There are some 800 advisory boards functioning in national forests, and the Department of Agriculture is favorable to the enactment of legislation that would give specific recognition to such boards.

Under the general authority granted for forest administration, the Secretary of Agriculture directs that the Chief of the Forest Service shall provide for recognition of, and cooperation with, local organizations of stockmen. The purpose of cooperation is to provide "* * * collective expression of the views and recommendations of national-forest range users concerning the management and administration of national-forest range lands" (*19, title 36, ch. II*). Regulations provide for cooperation with two different types of organizations: (1) Local, State, and National livestock associations; and (2) permittee advisory boards elected by the range users of a subdivision of a national forest, an entire forest, or a group of forests.

LOCAL ASSOCIATIONS

Local livestock associations in the national forests are informal, unincorporated groups of stockmen, organized chiefly because of their mutual interests in forest grazing. These groups, even when they adopt the name "grazing association," are not comparable to the cooperative grazing associations discussed elsewhere in this report. To be qualified for recognition by the Forest Service, an association must

include in its membership a majority of the permittees who, during the preceding season, held permits of record for the kind of livestock represented by the association. Furthermore, as a qualification for recognition, the bylaws of the association must provide that any operator permitted to graze that kind of livestock within the association's jurisdiction is eligible for membership and that all members will have equal voting power. The area within which the association operates must be stated in the application for recognition, together with the names of all officers and members. If the forest supervisor determines that the association is eligible for recognition, he informs the secretary of the association by letter. If recognition is withheld, the supervisor must so advise the association, giving specific reasons for the action. The forest supervisor's decision may be appealed to the regional office.

Functions of Associations and Advisory Boards

The *Manual* states that—

> The regulations, policies, and objectives of the Forest Service in grazing administration should be freely discussed with advisory boards and associations in order to improve cooperative relationships with permittees, enable them to secure a better understanding of policies and procedures, and to obtain the benefit of their experience and advice in solving range-arrangement problems (*14, NF–C7–2, p. 4*).

Matters which are discussed with advisory boards thus fall into two categories: (1) Those that are purely of an informational nature, and (2) those upon which advice is desired. Subjects discussed for informational purposes include such matters as: Grazing and trespass regulations, and established local, regional, and national policies and objectives; results of economic surveys, range inventories, inspections, studies, and research relating to range management; explanations of decisions reached and action taken on violations of regulations, renewal of preferences, and other matters that are controlled by law.

Except on matters of purely local range management, the most important advisory functions are those relating to proposed changes in policies. The regulations state:

> Proposed major changes in service-wide policies and procedures will be discussed with advisory boards and associations at all levels prior to the time they become effective, and recommendations and suggestions offered by these groups will be carefully considered before changes are finally made (*14, NF–C7–2, p. 4*).

Moreover, any recommendations that boards or permittee organizations care to make with respect to existing policy and regulation are received and referred to the proper authority for consideration.

Routine administrative problems and decisions within the scope of accepted procedures are not ordinarily referred to advisory boards except in case of controversies. The usual practice is to discuss such matters with the individual permittees involved. However, if a permittee disagrees with the forest officer's decisions, he may ask that the matter be presented to the advisory board for study and recommendation.

Appeals from the administrative decisions of Forest Service personnel may be made in two ways: (1) The aggrieved individual may file an appeal with the administrative officer who rendered the decision, and the appeal is then reviewed by the immediate superior of the

officer and by higher echelons up to the Secretary of Agriculture; or (2) the appellant may file a request with the local advisory board for its study and recommendation. Upon receipt of a complaint, the chairman of the advisory board notifies in writing each member of the board, the forest officer, and the appellant, designating a time and place at which a hearing will be held.

If the individual who initiated the original appeal dissents from the board's decisions, he may file an additional appeal which will be forwarded, together with accumulated records, to the regional forester for review or further appeal. The *Manual* (*14*) provides that if it is necessary to disapprove the recommendations of an association or advisory board, a clear statement of the reasons for disapproval must be furnished in writing. Such a disapproval may be appealed, as may all other cases of administrative action.

Associations and advisory boards may adopt special rules for range management. When the rules are approved by the forest supervisor, they become binding upon all range users whether or not they are members of an association. Special rules, once adopted and approved, remain in force until they are revoked. The area within which the rules apply is designated, and every permittee in the area is notified by letter or by inclusion of the special rule in his grazing permit.

Assessments necessary to make special rules effective may be levied by association or advisory boards, and payment is enforced by the Forest Service. When an assessment is levied, the association secretary notifies the supervisor of the total amount, and the supervisor determines the *pro rata* charge according to the number of livestock under permit. He then furnishes the association with a list of permittees, the number of stock held by each under permit, and the amount to be paid by each individual. The association collects the assessment. Failure on the part of a permittee to pay the assessment or to comply with an approved special rule may be considered sufficient cause to deny his permit or revoke his preference in whole or in part (*14*, *G–7*).

Grazing Administration in a Typical Forest

The role of group tenure in administration of national-forest grazing may be illustrated by a description of practices in a typical forest. Bighorn National Forest, in north central Wyoming, has a gross area of 1,121,541 acres. Of this area, 8,024 acres are privately owned and intermingled with the 1,113,517 acres actually administered by the Forest Service. Only 756,852 acres—about 67 percent of the gross area—are classified as "usable for grazing"; the remainder of the forest is dense timber, rocky, barren, very rough, or otherwise unsuited for grazing purposes. The unusable land is delineated and set off from the rest of the forest when it occurs in large concentrations, but smaller areas are included within grazing allotments and are compensated for in estimates of actual grazing capacity.

Of the usable grazing land, about 95 percent (723,272 acres) is actually open to grazing. The remainder of the usable grazing land is reserved for various purposes: 8 areas in the forest are designated as wildlife and game ranges, 11 areas around mountain lakes are set aside for recreation, and 2 areas are reserved for livestock drive-

ways. Forest areas open to grazing are divided into 137 grazing allotments of various sizes, including 51 cattle-horse allotments, 80 sheep-goat allotments, and 6 allotments open to mixed grazing. Cattle allotments are usually larger than sheep allotments and they include more than half of all land open to grazing. Permittees in Bighorn National Forest are represented by 10 local cattle associations and by 2 local sheep associations, all of which are at least 20 years old.

Each local association elects from its membership a president, vice president, and secretary, and two additional members, the five of whom constitute an advisory board representing the association.

Practically all administrative matters, however, are taken up with the whole association rather than with the advisory board. The association ordinarily takes up two kinds of business: (1) The forest official discusses with association members approval of grazing applications for the coming season, allocation of range, and other matters of local interest. This discussion is mainly of an informative nature, in which the Forest Service participates by explaining and interpreting its program for local users. (2) The association and the local forest officer cooperatively work out plans for range management within the grazing allotment. In addition to the local livestock associations, the Bighorn has two forest advisory boards. One represents all cattle permittees and one represents sheepmen.

In 1946, paid grazing permits were held by 197 cattle operators and 65 sheepmen. In addition, the Forest Service issued free permits to small operators who run fewer than 10 head of domestic livestock in the forest. The base rate for cattle permits in the forest ranged from 19 to 22 cents per cow-month, and the base rate for sheep ranged from 5.25 to 6 cents per sheep-month. Fees actually charged are related to current livestock prices and for the 1947 season were 214.5 and 167 percent, respectively, of the base rates.

Advisory Boards in the Taylor Districts

The purpose of the Taylor Grazing Act is "* * * to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range." [18] This act provided, for the first time, a program for administration of approximately 173 million acres of unappropriated and unreserved Federal public domain.

Within the five-State region considered in this report, the greatest concentrations of public domain and the only Taylor grazing districts are in the two western States—Montana and Wyoming. In these two States are located 11 Taylor grazing districts, including nearly 19 million acres of the former public domain, and embracing a gross area of nearly 54 million acres. Also, in the two States are an additional 5 million acres of vacant public land (Montana—1,706,851 acres; Wyoming—3,172,613 acres) outside of grazing districts. In the three eastern States, public domain is relatively unimportant; North Da-

[18] Approved June 28, 1934 (48 Stat. 1269), as amended June 26, 1936 (49 Stat. 1976), and July 14, 1939 (53 Stat. 1002) (*17*).

kota includes about 100,000 acres of public domain land, South Dakota has 315,000 acres, and Nebraska has only 29,000 acres (*7*, *table 26*).

In Wyoming, about 30 percent of all animal units in the State use grazing district land at one time or other during the year, and in Montana, the proportion is 20 percent. In 11 Western States, about 26 percent of all animal units graze within Taylor districts (*10*, *p. 17*). It should be recognized that Federal range is usually seasonal range used only for a part of the year.

Under the Grazing Service, users of Federal range in the grazing districts are issued permits, rather than leases. Grazing privileges are allocated on the basis of the commensurability rating of land owned or leased by individual operators. Grazing fees are based on an 8-cent animal-unit month fee, and are directly related to carrying capacity and number of animals permitted to graze. Six cents of this amount is to cover grazing privileges and 2 cents is a fee to be used in construction and maintenance of range improvements. Although grazing permits are usually issued to individual operators, they may be issued to associations, and much of the range is used in common.

Development of the Advisory Board System

The Taylor Grazing Act became a law only after many years during which similar legislation was considered, revised, and debated. In the extensive hearings conducted on the various proposals, it was apparent that both Congress and the administrative departments contemplated that advisory boards of livestock operators would play a large role in the new program. The precedent of the advisory-board system in the national forests was frequently referred to, and former Secretary Ickes said: "It is our intention to decentralize as much as possible the administration of these [Taylor grazing] districts and to place them under the control of the permit holders themselves, who will organize themselves into local stock associations" (*12*, *p. 68*). The bills then under discussion in the Congress usually provided that the Secretary should cooperate with local associations of stockmen and with the advisory boards they might name, and that the views of authorized advisory boards should be given fullest consideration consistent with the proper use of the resource and the rights and needs of minorities.

When the Taylor Act was approved, however, the only reference to the advisory-board system was the short and general statement beginning section 9:

> The Secretary of the Interior shall provide, by suitable rules and regulations, for cooperation with local associations of stockmen, State land officials, and official State agencies engaged in conservation or propagation of wildlife interested in the use of the grazing districts (*17*, *48:1269*).

Five years later, an amendment added the provisions that now define the legal status of advisory boards in the Taylor districts. Each district shall have an advisory board of local stockmen. The members of this board are known as grazing district advisers. Each board consists of not less than 5 nor more than 12 members, exclusive of wildlife representatives, one such representative to be appointed by the Secre-

tary of the Interior. Except for the wildlife representatives, the names of members of each district advisory board shall be recommended to the Secretary by users of the range in that district through an election conducted under rules and regulations prescribed by the Secretary.

Each district advisory board shall meet at least once a year to offer advice and make recommendations on applications for grazing permits within its districts. In no case shall any district adviser participate in any recommendation concerning a permit, or an application, in which he is directly or indirectly interested. Each board shall offer advice or make recommendations concerning rules and regulations for administration of grazing laws, establishment of districts, modification of boundaries, seasons of use and carrying capacity of the range, and other matters that affect administration of the law.

Although statutory recognition was given to the district advisory boards in the amended law, it only made compulsory what had formerly been permissive, and what had, furthermore, been the policy of the Grazing Service. It is significant that the *Federal Range Code* (*16*) in force at the time of the McCarran amendment embodied all the provisions of the amendment except: (1) Specification of the size of advisory groups; (2) provision for a wildlife representative; (3) recognition of authority of advisory boards to pass on establishment and modification of grazing districts; and (4) the requirement that the Secretary request advice of the boards before publishing rules and regulations. In fact, local range users played an important role in the drafting of the *Range Code* and its subsequent revisions.

Composition of Taylor District Advisory Boards

The average number of advisers in each of the 60 Taylor districts is approximately 10. Generally speaking, complete advisory boards consist of 1 appointed wildlife representative, 1 elected free-use representative, and about 10 elected cattlemen and sheepmen in numbers roughly proportional to the number of cattle and sheep permittees in the district.

In general practice, each Taylor district is subdivided into voting precincts, each of which is allotted one or more representatives. Precincts are so delineated as to preserve communities of interest, and representatives are chosen to represent the dominant interest or interests within the precinct. If the majority of permittees in a precinct are sheepmen, representatives are sheepmen. In other precincts, representatives may be cattlemen or a combination of cattlemen and sheepmen.

Persons qualified to receive regular or free-use permits from the Grazing Service (permits for free grazing of limited numbers of livestock kept for domestic purposes) are qualified to nominate candidates, vote in elections, or serve as advisers. Nominations are made by qualified electors within the precincts. That is, electors residing in a precinct nominate only candidates for the type of representatives allotted to the precinct. Voting is at large within the district. Each permittee in the district is allowed one ballot on which he may list one name for each representative who is to be elected to the district board. For example, a district board may consist of six cattlemen and five sheepmen. Nominations for the cattlemen's representatives come only

from the voting precincts which are allotted cattlemen's representatives. At the general election, all cattle permittees, wherever they operate within the district, vote for six cattlemen, regardless of where they are nominated. Free-use permittees nominate and vote for one candidate who represents the entire district.

Each elected advisory board member holds office for 3 years, and a third of the members are elected annually. The district advisory board elects from its membership a chairman and any other officers it may desire. Meetings are held at least once annually at any time or place designated by the regional grazier. All meetings of the advisory board are open to the public except when, with the approval of the Grazing Service representative, the board meets in executive session. Frequency of meetings depends upon the nature and urgency of the business to be considered.

Advisory Board Operations

In each of the 60 Taylor grazing districts, grazing permittees elect an advisory board to advise and make recommendations to the Grazing Service regarding administration of Federal range. In nearly all of the States a State advisory board is recognized. This board is composed, in most cases, of a cattleman and a sheepman elected from each district board. From each State advisory board a national advisory board consisting of a cattleman and a sheepman is elected (*11, pp. 4–5*). The national advisory board, State boards, and district boards have similar functions relating to policies, regulations, and problems of administration at their respective levels. The national advisory board, for instance, participated actively in the 1942 revision of the *Range Code*, which applies to all States and districts, and the local or district boards make recommendations relating to allocation of grazing privileges within the districts. District boards ordinarily work directly with district graziers, and the national board advises the Director of the Bureau of Land Management.

Advisory boards of the Grazing Service are not only recognized in the Federal statutes but their members are considered employees of the Department of the Interior. After election by range users, advisory board members are appointed by the Secretary of the Interior and they take an oath of office (*16, sec. 12 (g)*). While engaged in official business, advisers are compensated for travel and expenses.

District boards are authorized to advise or to make recommendations on the following matters: (1) The carrying capacity of the Federal range in the district; (2) applications for grazing licenses or permits; (3) rules for fair range practice; (4) allotments of range by classes of livestock or for community or individual use; (5) seasonal use of the Federal range; (6) applications for construction or maintenance of improvements on the Federal range; (7) recommendations made by local associations of stockmen in the district; (8) reservations of carrying capacity of Federal range for wild game animals; (9) special management rules for the district; (10) any other matter they may desire to bring to the attention of the Secretary of the Interior, or on which he may request their advice.

Particularly by the inclusion of the last point, advisory boards in the Taylor districts have authority to consider any matters relating to administration and use of the Federal range.

Applications for grazing privileges were first handled in meetings of stockmen at which individual permittees as well as advisory boards were present. In one Wyoming district, for instance, the advisory board and district grazier held a series of meetings throughout the area. At this meeting each operator on Federal range was questioned as to his prior use of the range and the extent of his private holdings. Both questions and answers were heard by the entire group and were recorded in minutes of the hearing. When the individual concluded his statement, members of the audience—including the neighboring ranchers—were permitted to introduce objections and corrections. Advisory board members acted as mediators and arbitrators, eventually reaching agreements for the distribution of the range among individual operators. These agreements, written up and signed by all individuals involved, formed the basis for issuance of temporary grazing licenses.

Advisory boards exercise authority in expenditure of funds returned to the districts for range improvements. According to section 10 of the Taylor Act, 50 percent of the receipts from grazing fees are returned to the States from which they were collected, to be spent "* * * for the benefit of the county * * * in which the grazing districts are situated." In 1947, the division of revenue was changed by Public Law 347, which provides that 12½ percent of the grazing fees as distinguished from the range improvement fees would be returned to the States. The division of revenues obtained from leasing isolated tracts of grazing land under section 15 of the Taylor Grazing Act was not changed. The expenditure of these funds by the States is in accordance with the directive given by the States, although in most cases the funds are used either directly or indirectly for range improvement.

Local Associations in the Taylor Districts

In addition to the advisory-board system, the Grazing Service, like the Forest Service, provides for the recognition of local associations of stockmen. There is considerable difference, however, between the types of associations recognized by the two Services. The national forest associations are unincorporated livestock or range-management associations, designed primarily to handle livestock on the forest ranges. They do not acquire title to land by lease, purchase, or otherwise. The local associations of the Grazing Service, on the other hand, are comparable to the cooperative grazing associations as the term is used elsewhere in this report.

Section 13 of the *Federal Range Code* (*16*) provides that: "Qualified applicants for grazing licenses or permits in any grazing district may organize a local association, or several associations, according to classes of livestock, or by community of interest or otherwise." Regulations require that such associations may be organized as nonprofit corporations "* * * if permissible under the laws of the State in which the grazing district * * * is situated," or as cooperative unincorporated associations. These associations should have the following powers:

1. To lease, or otherwise acquire the control of State, county, privately owned, tax-default, or other lands within or near a district.
2. To make contributions in cash, property, material, or labor toward administration, protection, and improvement of the Federal range in the district.

3. To construct and maintain fences, wells, reservoirs, and other improvements necessary to care and management of livestock grazed in the district under permit issued by authority of the Secretary of the Interior.

4. To act in an advisory capacity to the Secretary of the Interior in administration of the Federal range lying within the district. All recommendations made by the association to the Secretary shall be subject to the provisions of the *Federal Range Code.*

5. To recommend the amount, manner of apportionment, time, and method of collection of assessments for association purposes, as well as for the public purposes contemplated by the Taylor Grazing Act.

6. To enter into cooperative agreement with the Secretary of the Interior or his representative for any of the foregoing purposes or for any other purpose authorized by the Taylor act (*16, sec. 13 (c)*).

Before a local association may be recognized by the Department of the Interior, articles of incorporation, charters, or constitutions must be submitted for review. If the association is then determined to qualify under provisions of section 13, it may be formally "recognized" by the Secretary. In the northern Great Plains States recognition is practically limited to Montana State grazing districts.

GROUP TENURE IN OTHER PUBLIC LAND-MANAGEMENT PROGRAMS

The preceding discussion has dealt with the more prevalent types of group tenure in the northern Great Plains. The three organizations described in this section are further illustrations of the many forms group tenure may take. These latter types are not common. Each has been developed in an effort to deal with special local problems. It is possible that still other forms of group tenure may have been developed to meet the needs of particular circumstances and, although little known outside their own localities, they may contribute effectively to improved tenure and better land use.

Cedar Soil Conservation District

Organized in May 1939 under the North Dakota soil conservation districts law, the Cedar Soil Conservation District is of particular interest in this study for two reasons: (1) It was the first soil conservation district in the region to engage in leasing and group-tenure activities, and (2) it has a land-use regulation to control range use. At the time it was organized, this locality, like much of the region, was in difficulties. Through a combination of drought, overgrazing, and ill-advised attempts to farm submarginal land, land resources were badly depleted. Much of the area was tax-delinquent and uncontrolled, and local operators were unable to establish adequate and stable units. From the beginning, the primary interest of the district's membership has been in range management, and the resulting program has had two principal phases: (1) Range improvement and development, and (2) stabilization of tenure. The former aspect is a characteristic activity of soil conservation districts generally, but in this particular district, the latter has received great emphasis distinguishing it from the majority of soil conservation districts. Actually, emphasis given to tenure improvement in this district demonstrates that under some circumstances instability of tenure is the limiting factor in improvement and protection of land resources.

Tenure-Improvement Program

One of the first steps toward improvement of tenure in the district was to outline and define individual operating units. Accordingly, the district was subdivided into 140 "lease blocks," which establish the exterior boundaries of each operating unit. The basic tenure program of the district is to help operators acquire control by lease or purchase of land included in their lease blocks. Establishment of lease blocks is not a simple process, particularly when much of the land is uncontrolled.

By mutual agreement each operator leases, without competition, the land which falls in his block. The lease blocks automatically determine allocations of district-controlled land, and they are also observed by other public agencies that own and lease land. When an operator is unable or unwilling to lease the land offered, his lease block is redrawn. Over a period of years, this process has resulted in extensive redefinition of lease blocks, apparently compensating for the initial tendency of individual operators to claim all the land they might conceivably want at any time in the future. During the years of district operation, the pattern of lease blocks has shaken down into well-defined and stable units.

The district began its leasing activities in the spring of 1940, attempting by group action to get better rates and more comprehensive control than operators had been able to obtain individually. Group action was considered preferable also because stockmen felt that their own organization could be better trusted to allocate land to the proper units than could outside agencies working with individual leases.

The first land leased was county land. In the fall of 1939, Sioux County owned six or seven sections in the district and many more were subject to tax deed. The county adopted the policy of taking title to all land subject to tax deed. The district offered to lease this land for 10 cents an acre. During the following year, more than 46,000 acres were made available, and the agreement was renegotiated at a slightly lower rental. The district guarantees payment of the rental and is reimbursed by subleasing the land to individuals.

During 1940, the district also began to lease State school land. By offering to take all unleased school land in the district for 20 dollars per section, district supervisors obtained control of 77 quarter-sections—about half of all State school land in the district. The remainder was kept under lease to individuals. The district-controlled State land, together with county land, was immediately subleased to individuals in whose lease blocks it was located.

Attempts of the district supervisors to extend district leasing to other types of land met with qualified success. Although no group leases were concluded, the Bank of North Dakota and the Federal land bank agreed to sell or lease land only to operators in whose lease blocks the land was located. The Indian Service likewise refused to lease directly to the district, but it adopted the policy of using the lease blocks as a basis for making individual leases.[19] Thus, although the district was unable to realize its early hopes of reducing rentals,

[19] The Cedar district is located within the Standing Rock Indian Reservation, and the Indian Service controls nearly 54,000 acres of land in the district.

it succeeded in another important respect by making the lease-block system effective for the major types of public land which comprise nearly half its total area. In its relations with the Bank of North Dakota, the Federal land bank, and the Indian Service, the district board of supervisors has assumed an unofficial role comparable to an advisory board.

In making subleases to individual operators, the supervisors allocate land by the lease-block system. Costs are fixed at a level that permits the district to pay group-lease rentals to the State and county. At first, all rentals were based on acreage, private operators paying for subleases at a rate of 5 cents an acre for grass and 50 cents for cropland. By 1942, sublease rentals on county-owned land were converted to a feed-production basis.

During the first 4 years of operation, the Cedar Soil Conservation District used only individual lease blocks. In 1944, a community pasture was established in the western end of the district to take care of a neighborhood of small combination farming-livestock units. For this area, the district has established preferences and issued grazing permits similar to those used in cooperative grazing associations elsewhere in the State.

The first of several land-use regulations in the five-State region was adopted by the Cedar district on August 1, 1939, after a referendum of all operators in the district. The regulation was aimed primarily at a form of trespass that, in 1939, was particularly troublesome in the locality. Outside operators, chiefly from South Dakota, were making spot leases within the district, then grazing their livestock over surrounding areas as well as on the land over which they had legal control.

The land-use regulation requires that an application for a permit to enter the district must be filed with the supervisors at least 10 days before the livestock are imported. The application must include the following information: (1) Number and kind of livestock, (2) length of grazing season, (3) legal description of grazing unit, and (4) proof of ownership or copies of leases or other evidence of legal rights in the land. If the application shows that the operator has sufficient range to meet grazing requirements, the supervisors may issue a permit for entry of the livestock.

For unauthorized entry, or for importation of more animals than are provided in the permit, or for grazing over a longer period than authorized, the owner of the livestock may be assessed a fine per animal unit per day for the extent of trespass. If a fine is assessed against an operator, the regulation authorizes the supervisors to impound the trespassing livestock until settlement is made.

The regulation ostensibly applies to all operators in the district, although in application and even in terminology it is aimed primarily at outside stockmen. Apparently the regulation has been completely effective in stopping the practices at which it was aimed. During the year after adoption, the supervisors received a number of inquiries from stockmen outside the district, but only three permits were issued. Policing of the regulation is left to operators within the district.

It should be noted that the land-use regulation was adopted before the district began its leasing program and when much of the land in

the district was uncontrolled "free" land. As local operators now lease and control most of the district, either through group or individual leases or ownership, the regulation is principally of historical interest. It was aimed at the control of free range which no longer exists in any appreciable quantity.

Potter County Grazing Association

The Potter County Grazing Association in South Dakota was organized solely to lease State-owned school and endowment lands (*4*). In South Dakota, school lands are leased at competitive bidding at an annual lease auction. Until 1937, when the grazing association began to function, about half of the 100,000 acres of school land in Potter County were not leased. Unleased land used under trespass was often overgrazed and abused and it provided no revenue to the State. Leased land rented for a minimum of 15 cents an acre for common school land and 11 cents an acre for land endowing the State university, college, and normal schools. Competitive bidding sometimes brought rentals for particular tracts considerably above the minimum.

The grazing association was organized after Potter County operators reached an informal agreement with the State commissioner of school and public lands. The association agreed: (1) To lease all land not otherwise leased at lease day, (2) to provide inspection service to ensure that the land was properly used, and (3) to guarantee payment of lease rentals. In return, the State land commission agreed to lease the land at reduced rates—a flat 11 cents an acre for common school land and 9 cents an acre for endowment lands.

The State commission continues to offer school lands to individuals on lease day as previously, and the regular minimum rentals of 15 and 11 cents apply. The grazing association does not bid for land. Instead, it automatically receives a lease for all school land remaining unleased after all individual bids have been received and all private leases taken up. No competitive bidding is involved in the association lease; the association does not compete against any operator who bids for an individual lease, and the lease rental to the association is at a flat rate. Land under the association lease is subleased.

The sublease rate is normally at the same rental charged the association, and association expenses are paid from the proceeds of a 50-cent fee paid annually by each lessee. This arrangement offers only a narrow margin of cost.

The Potter County association is incorporated as a nonprofit organization. The county agricultural agent furnishes the office space needed and services of officials are donated. Apparently, range inspection and supervision are nominal, and few supplies are needed. The sublease agreement is simple; it lists legal descriptions of the land, acreage, amount of rental, and stipulates that the lessee abide by all terms of the regular school land grazing lease as issued by the State commissioner of school and public lands. The sublease is signed by the lessee, the secretary of the association, and a witness, and serves as a receipt for the fees which are paid in advance by the lessee.

During the first year of operation, the association had approximately 40 members and leased about 40,000 acres of school land. Acreage leased by the association gradually increased from 65,000

acres in 1938 to 73,000 in 1939, 76,000 in 1940, and 91,000 in 1942. The peak of association activities was reached in 1946, when membership included 176 operators, and when approximately 100,000 acres of school land were under lease. The original 40,000 acres leased during 1937 represent, for the most part, land that had never been leased or that was so badly depleted that individual operators had no further desire to bid for it. Subsequent increase in acreage of leased land is paralleled by a proportionate decrease in acreage held under individual leases.

The policy of the association has consistently been to recognize prior use and to protect rights of established users. Association land is offered to operators who have leased or used it previously. If an operator refuses the sublease or if he cannot be located, the land is offered to the nearest operators. Once assured of that policy, individual operators have tended to abandon individual leases in favor of subleases from the association at lower rates. As might be expected, however, users of State school land regularly attend the annual lease auction, prepared to enter into competitive bidding if another operator offers to bid for the same land.

Because the association does not acquire control until the land has been offered for lease by the State commission, leases are still subject to competitive bidding. Potter County operators benefit primarily from lowered rental rates through the association. The advantage to the State land commission is that all school land in the county is leased every year, and one comprehensive lease takes the place of many small individual leases. Loss to the State from the reduced rental rate is more than offset by gain from a greater acreage under lease. When there is any real competition for a tract—the condition under which rentals normally exceed the minimum rate—the issue is usually decided by competitive bidding on lease day.

Rock Springs Grazing Association

The Rock Springs Grazing Association, in southwestern Wyoming, a stock company, was organized nearly 40 years ago for the purpose of getting control of railroad grant land and, through it, the surrounding public domain.[20] Until the Taylor Grazing Act was signed in 1934, the public domain was a vast uncontrolled "no-man's land." Except by homesteading, there was no legal way of establishing control over public domain lands; they could not be leased, purchased, or fenced in with privately controlled land. Control over the public domain went with control of the resources without which this land could not be used—ranch headquarters, feed base, and key tracts with either natural or developed water.

The land grant of the Union Pacific Railroad reaches for 20 miles on either side of the main line. In this 40-mile-wide strip, the railroad owns—or formerly owned—every alternate section. Intermingled with the railroad land in a checkerboard pattern is the public domain. In the Rock Springs area, the checkerboard railroad land offered a special opportunity because these alternate sections could be

[20] The following discussion is based largely on a personal interview with John Hay, Jr., president of the Rock Springs Grazing Association, November 1940.

brought under legal control and, by virtue of position, they controlled the intermingled public land.

The Rock Springs association occupies an area that is the width of the railroad grant—40 miles—and in its greatest dimension it is nearly 100 miles long. The gross area, as nearly as can be determined from maps, is approximately 2 million acres. Within this area, the association owns about 365,000 acres and leases about 530,000 acres, most of it railroad land. Alternate sections are still public domain, now administered by the Bureau of Land Management of the Department of the Interior.

Expenses of the association are paid by assessments levied against shares of stock. From these proceeds are paid such expenses as the grazing permit on public domain, the Union Pacific and other leases, land purchases, salary of a range rider, range improvements and developments, and interest on debts. Grazing privileges, as well as costs, are distributed according to share holdings, and costs to members are thus proportionate to benefits received.

The association is an organization of big sheep operators. Land controlled by the association is merely winter range used in individual enterprises; members of the association have their ranch headquarters and summer range elsewhere. Some have permits in the national forests, and at least a few have individual grazing permits from the Grazing Service. Membership is widespread; it includes residents of Idaho, Colorado, and Utah, as well as Wyoming. Some members move sheep as much as 500 miles during the year, moving into two or more different States during their seasonal migrations.

There are almost no fences in the Rock Springs area, and one reason given for using the range in common is to provide more flexibility to meet local variations caused by capricious weather. Bands of sheep may be moved anywhere within the district and, in theory, the entire range is used at some time during the season, but at times when conditions are favorable. The only restriction on free movement of sheep is the association's rule that a band of sheep must not be moved more than 5 miles a day; sheep may feed anywhere, but they may not be trailed across the range. A full-time range rider is hired by the association, but as the sheep are herded the rider's principal function is to watch for trespass and to enforce the few rules of the range.

Federal policy has been modified somewhat in its relationships with the Rock Springs Grazing Association. The grazing permit is issued to the association rather than to individual member-operators. Each share in the corporation is rated as commensurate for 1,696 animal units, whereas the more customary procedure is to base grazing permits on the feed base, ranch headquarters, and supplementary range controlled by individual operators. Ordinarily, grazing on the public domain is considered supplementary to other phases of the livestock enterprise; that is, a private operator provides feed and forage for his livestock during the winter months and receives a grazing permit for his summer range. The typical grazing permit is based more or less on commensurability of the base property. In the case of the Rock Springs association, the permit is based on association-controlled winter sheep range and authorizes grazing on the same kind of land for the same season.

SUMMARY AND CONCLUSIONS

This report deals with group-tenure procedures up to about 1946. Since then some changes have occurred, and many cooperative grazing districts are now (January 1949) in a more precarious position than they have been at any time. Some observations are made in regard to the current situation, but to go into this problem in any detail would in itself require a special study.

In administration of public land, group tenure offers advantages to both land users and administrators. Users of public land want stability of tenure, low costs, and opportunity to use the land under conditions favorable to their private operations. To some extent, these goals have been attained through group-tenure procedures. Land transfers and changes of ownership have been less rapid within cooperative grazing districts than outside the districts. As an illustration, a 1944 report for a land utilization project (MT–LU–21) in southeastern Montana states:

> A survey of real-estate transfers in the area reveals the state of stability which has been reached in the grazing districts. In comparison with the unorganized area (outside of grazing districts) there have been very few changes in ownership, and in almost all cases in which there has been a change it has involved operators buying land already in their units. In other words, there have been practically no changes in the boundaries of operating units within the districts in the past year. Outside the districts, the changes have come so fast it is almost impossible to keep abreast of them.

By their methods of allocating grazing privileges, the Federal agencies discussed in this report seek to stabilize operating units. This is accomplished either by issuing long-term grazing permits—as in the Grazing Service—or by basing grazing privileges on preference ratings which are more or less permanent. Stability of tenure is also sought through the practice of block leasing. By such means, operating units are protected and present users are given first opportunity to buy or lease land they are already using.

Group tenure also offers the benefits of lower rentals and grazing fees. State and county lands are generally leased at lower rates and better terms to groups than to individuals, because the tenure group assures landowners of greater stability of income and better land use. Group enterprise has the advantage of increased bargaining power. In some cases, this power has meant not only lower initial rentals but the ability to keep rentals down in a generally rising market.

Land users also benefit from the opportunity to participate in administrative processes, to settle their own problems among themselves, and to direct the program along lines most acceptable under local circumstances. In a few cases, land users have testified that they were discriminated against by association directors, that they were not adequately represented in the associations, that associations were dominated by the larger operators who looked after their own interests, and that it would be preferable to deal directly with the public land agency (*11, pt. 2, p. 414*). In some cases, these complaints are undoubtedly justified, but it may be observed that similar difficulties are involved in all forms of group organization.

From the viewpoint of the land-managing agency, the advantages of group tenure are of three general kinds: educational, advisory, and administrative. Group tenure serves an important informational or

educational function, apprising local range users of the "rules of the game," the agency's policies, and program purposes. As participating members of a tenure group or through representations of elected officials, individual operators have greater opportunity to understand their relations to the public agency and its policies. Moreover, public-land programs have long-time objectives which must be accepted by land users and by the public. At times, this understanding is essential to the proper functioning of the program.

One of the great advantages of group tenure is its potentiality for assuming burdens of local administration. Without a tenure group, a large-scale landowner must deal with a multiplicity of individual operators. When a tenure group exists, the landowner can negotiate one lease or permit, avoiding the innumerable explanations, arbitrations, and decisions that are involved in executing a series of individual agreements. By dealing with a tenure group, governmental administrators are able also to avoid many problems of a purely local and personal nature. At the group level, negotiations are on matters of general policy and area administration; at lower levels, they often involve difficult adjudications between individual operators.

In Montana, the United States Department of Agriculture cooperates with State grazing districts on much the same basis as with soil conservation districts. In the two Dakotas, however, grazing associations may not enter into memoranda of understanding with the Soil Conservation Service, and the soil conservation program for private land is administered exclusively through soil conservation districts. This means, in effect, that if operators in a grazing association wish to carry on a comprehensive program for both public and private lands, they must also organize a soil conservation district which is empowered to execute a memorandum of understanding, develop work plans, and engage in conservation work on private lands. The grazing association may continue to operate under the grazing agreement for the use of title III land, or this function may also be assumed by the soil conservation district organization. To deal with these problems, which arise from overlapping organizations, departmental policy might be modified to allow at least limited cooperation with grazing associations on all phases of the Federal soil conservation program; or State laws might be changed to give grazing associations more nearly the status of Montana State grazing districts.

The advisory-board form of group tenure seems to be best suited to two types of situations: (1) Public-land programs in which there is a pronounced multiple-use consideration, and (2) situations in which public land constitutes a high percentage of the total area and is under the jurisdiction of a single government agency. National forests are included in the first category. Because the basic purpose of the forests is protection and production of timber, and because recreation, wildlife, and watershed protection are highly important considerations, it is difficult or impossible to delegate administrative authority exclusively for grazing uses. Apparently there is no way, for instance, to write a grazing agreement that would offer adequate security to a tenure group without possible prejudice to other interests in the land.

In the second category may be included some of the areas now administered as Taylor grazing districts. In localities in which public land is solidly blocked up and where it is under the jurisdiction of a

single agency—as the Bureau of Land Management—interests of local permittees may be adequately protected by advisory representation.

Grazing associations and districts offer advantages not enjoyed by the advisory-board system. Advisory boards in themselves do not help with administrative routine, which is one of the principal advantages of group tenure in administration of public land. Even with the best advisory assistance, the agency concerned still must go through the mechanics of dealing with each individual land user. In contrast, when an agency issues permits to a tenure group the association handles the routine of individual subpermits. One measure of the usefulness of a tenure group, from the agency viewpoint, is the extent to which it assumes an actual work load.

Grazing associations also have routine administrative duties and they carry on supplementary activities—such as leasing, range development, and livestock management—which tend to sustain local interest in the tenure group. Advisory boards may be very active when a program is begun, but as problems are resolved the immediate and apparent need for the group diminishes. Loss of interest by the membership is a problem common to most group activities. Group tenure may be peculiarly susceptible to such a danger, however, because if it functions adequately tenure becomes stabilized, individual operators repose more confidence in their land control, and the incentive for active member participation diminishes. Nevertheless, the group should remain active, not only to meet new developments but to maintain a consistent policy in everyday operations.

It is probable that group tenure can more easily lose the administrative viewpoint if it is maintained solely for advisory purposes. The value of an advisory board to the governmental agency continues only so long as it offers advice that the agency can use. Without administrative obligations, the boards might conceivably fail to appreciate that recommendations must be evaluated on the basis of administrative feasibility. Loss of that viewpoint is particularly easy if the agency is obliged to reverse decisions of the advisory boards, and local groups may become sources of criticism and opposition rather than advice.

There are no well-defined administrative or contractual relations between an advisory board and the agency by which it is established. Both the Grazing Service and the Forest Service specify that advisory boards have only advisory functions and that administrative authority is reserved by the agency. At the same time, a local administrator can maintain a strong advisory board only by giving the members some assurance that their decisions will be adopted. If decisions are overruled, the administrator is in the difficult position of trying to cultivate the good will and confidence of individuals whose advice he seeks but does not take. A degree of this uncertainty is avoided when local groups have definite contractual relations with the land-management agency, as do associations which enter into grazing agreements with the Soil Conservation Service. By provisions for cancellation of the contract, final authority may be considered to remain in the Government, with the districts functioning as subordinate administrators. Within limits defined in the agreement, however, both administrators and local groups have exclusive responsibilities and authority.

One of the major shortcomings of the advisory board system is that it does not afford opportunity to centralize control over lands in vari-

ous kinds of ownership. In the northern Great Plains, important tenure problems do not derive from public ownership so much as from a complicated intermingling of Federal, State, county, corporation, and individually owned land. A cooperative grazing association or a soil conservation district can buy or lease land from a number of different owners and thereby establish uniformity of tenure for operating purposes. An advisory board functions only with regard to one type of ownership. For this reason, an advisory board seems to have its most effective application in areas in which most of the land—other than that controlled directly by individual operators—is administered by one agency.

Special State legislation is not essential to group tenure. Livestock operators can organize and perform group-tenure functions more or less adequately under the general laws for corporations and cooperatives. Grazing associations in Wyoming do not appear to be handicapped by the fact that the State does not have a grazing district law of the type enacted in Montana and the Dakotas.

Special legislation has several advantages, however. Grazing associations probably benefit indirectly from the publicity and the public sanction implied in special laws. Also, the process of organization may be somewhat easier and less costly. Furthermore, special laws make possible coordination of group tenure with other public programs. South Dakota law, for example, authorizes boards of county commissioners to make special long-term leases with grazing associations; and, in Montana, State grazing districts are required to lease unleased State land within their boundaries. Such arrangements can be of mutual advantage to State and local associations. During the 1930's, both State and county governments had difficulty in leasing their lands. Although this is not now a problem, it is at least possible that former difficulties may recur. Provisions for compulsory leasing of State and county land would not only provide a lease market but might relieve local units of financial pressure which may result in an indiscriminate sales policy.

If leasing is made mandatory on grazing associations, tenure groups should be given the protection of long-term leases at rentals based on use-value of the land. Such agreements now exist in some localities, but, generally speaking, relations between grazing associations and county land agencies are highly variable. It seems probable that legislation clearly defining mutual responsibilities of tenure groups and the State and local land agencies would promote better understanding and more stability in their relations.

Special legislation for group tenure has an additional advantage in that it may provide a central State authority to supervise and regulate the local districts. Such a regulatory body as the Montana State Grass Conservation Commission has several important functions. It can represent and protect the interests of the general public. A State commission, for instance, can assure that a district is not organized unless a majority of the livestock operators in the area favor it; that membership in the association is open to all qualified operators; that the association makes a reasonable effort to acquire legal control of land in the district; and that the trespass authority is not misused.

A State authority offers advantages to the individual grazing associations, not only by advising them in the processes of organization and

operation but also in improvement of general public relations. Distrust of group tenure may frequently be traced to misunderstanding and lack of information.

Experiences in Montana indicate that standards which the grass conservation commission enforces upon Montana grazing districts are substantially the same as those sought by public land agencies. In most cases, a district approved by the State commission is considered qualified for a grazing agreement with the Soil Conservation Service and the Grazing Service. In States other than Montana, public land agencies themselves are obliged to review bylaws, association rules and regulations, and local circumstances to determine whether local associations are feasible for operation, as a prerequisite to determining whether an agreement for use of Federal lands would be advantageous. It appears, therefore, that an important function of a central State authority is to establish a reasonable degree of uniformity in group-tenure operations so that public-land agencies—Federal, State, and local—may adopt general policies of cooperation.

In the relatively brief period during which cooperative grazing associations and land-managing soil conservation districts have operated in the northern Great Plains, experience has demonstrated that these groups have an important place in administration of public lands. Because of variations in laws, local conditions, and policies of public-land agencies, categorical answers to specific questions are frequently unjustified. Operational experience is too brief to afford an accurate appraisal of the long-time potentialities of group tenure.

In the northern Great Plains, grazing asssociations and districts are now meeting for the first time the test of favorable conditions. Favorable weather and high prices have been a weakening influence because intensified competition for grazing land on the part of operators who are now in position to buy such land has resulted in large acreages moving into private ownership. The result has been that need for cooperative devices to control and regulate tenure, particularly on non-public lands largely in absentee ownership, and on county lands, has almost disappeared. Most of the county land has been sold to owner operators.

The difficulty that some districts have met because of the practice of different public agencies charging different fees for grazing lands under their control and supervision causes some concern. For instance, a grazing district may pay 8 cents per animal-unit month to one agency and 18 cents per unit to another agency for land of approximately the same quality. Consequently, an individual member who operates largely on the cheaper land must pay the district a weighted average fee that is actually somewhat greater than the 8-cent fee that would be charged if he dealt directly with the agency. It is reported that in some districts this situation has become so acute that there is danger of dissolution of the district for this reason.

In general, however, grazing district associations to date have stood the test of favorable weather and high prices rather well. There is every reason to believe that they have a significant and strategic place in management of public land. Their performance in the present period should provide more conclusive evidence of the potentialities of group tenure in effective administration and management of public land.